

FACE SHEET

(See Instructions on Reverse)

RDB #0188-06

SUBMITTED FOR REVIEW

SEP 06 1988

OFFICE OF ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

8.23.88

FILED

In this office of the Secretary of State
of the State of California

OCT 03 1988

At 4:52 o'clock P.M.
MARCH FONG EU, Secretary of State
By Shella Lee
Deputy Secretary of State

For use of Office of Adm. Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

SECTIONS REPEALED:

50-010, 50-011, 50-012, 50-013, 50-014, and 50-050

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☒ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION
August 23, 1988

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))

April 29, 1988

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

Repeal Section 50-010:

50-010 GREEN V. OBLEDO

50-010

.1 Preface

On March 5, 1981, the California Supreme Court issued an opinion in the case of Green v. Obledo. That opinion declared former EAS Section 44-113.241 (which was repealed effective November 10, 1981) in violation of the federal law then in effect because the state regulations failed to allow actual work-related expenses.

On May 5, 1981, the Sacramento County Superior Court issued a judgment invalidating EAS Section 44-113.241 to the extent this regulation disallowed both actual expenses of using a private automobile as transportation to and from work and other expenses reasonably attributable to employment. On December 29, 1981, this court ordered retroactive benefits for recipients or former recipients who were disallowed such actual work-related expenses under EAS Section 44-113.241.

The time period for retroactive benefits under the Superior Court order is from January 1, 1974 through November 9, 1981. Because of retrospective budgeting procedures, claims for retroactive payments may include expenses and/or income reported in any month between November 1973 through September 1981 (inclusive) except for cases which were new or restored cases in October and/or November 1981. For these cases, the costs paid and income received will be for the months that were used as a basis for the original grant computation.

In addition to requiring retroactive payments to eligible individuals, the Superior Court ordered also that prejudgment interest be paid on retroactive payments at the legal rate applicable to the aid month.

The following provisions describe the procedure by which retroactive aid will be claimed and eligibility for benefits determined.

.2 Informing potentially eligible persons of the availability of retroactive payments.

.21 In order to notify the class of potentially eligible persons, the Department shall:

.211 Enclose a notice informing recipients of the Green v. Obledo decision with each September, 1984 Medi-Cal card.

.212 Send the notice in .211 above to the Prepaid Health Plan members in September, 1984.

.213 Place paid advertisements in newspapers with the same general message as the notice described in .211 above. These advertisements should appear during September, 1984.

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- .214 For a period of eight weeks at weekly intervals issue general media press releases beginning in September, 1984 with the same general message as described in .211 above.
- .215 Issue posters in English and Spanish informing the general public of the Green v. Obledo decision. Supplies of posters will be made available to offices of the Employment Development Department and County Welfare Departments (CWDs).
- .22 The county welfare department (CWD) shall forward a supply of posters to their Family Support Divisions and to county general hospitals and request that such notices be posted in a conspicuous location from the day they are received until February 1, 1985.
- .221 English and Spanish posters informing the general public of the Green v. Obledo decision shall be posted in the CWD from the date they are issued until February 1, 1985.
- .3 Application for Retroactive Payment and Claims Processing
 - .31 Claimant Responsibility
 - .311 Claimants shall contact the county welfare department or the State Department of Social Services to obtain claim forms. (Green v. Obledo Work-Related Costs, TEMP 1583 and 1583A).
 - .312 A separate claim form shall be completed and sent to each county in which the claimant received or was denied aid and from which he/she wishes to claim retroactive benefits.
 - .313 Claims shall be submitted to the county from which the claimant received aid in the aid month(s). It shall be the claimant's responsibility to ensure the claim form is mailed to the appropriate county.
 - (a) The claim month (budget month) refers to the month in which work-related costs were incurred or paid (see Section 50-010.521)
 - (b) The aid month (payment month) refers to the second consecutive month after the claim month except as provided in (1) below:
 - (1) For cases in which prospective budgeting was used during the aid month, the claim month and aid month are the same.

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50-010 GREEN V. OBLEDO (Continued)

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.314 Claim forms shall be submitted to the proper county (see .313 above) by February 1, 1985 for former recipients and by January 1, 1985 for current recipients. Claims submitted after this final filing date shall be denied except as provided in .326 below.

(a) Unless the evidence indicates otherwise, the date submitted shall be determined as follows:

- (1) If the claim is mailed to the county welfare department, the postmark date of the envelope;
- (2) If the claim is delivered by hand to the county welfare department, the date of delivery;
- (3) If the date cannot be determined by the methods described above, two days before the claim was stamped "received" by the county welfare department;
- (4) If the date cannot be determined by (a), (b), or (c), the date the claim was signed.

.315 The claimant shall cooperate in obtaining all information necessary to process the claim.

.32 County Responsibility

.321 The county shall provide and/or mail the appropriate claim forms to the claimant, upon request.

.322 The county shall stamp each claim with the date the claim was submitted by the claimant (see .314 above) and the county to which it was submitted.

.323 If a county receives a claim form for a month in which it neither paid nor denied aid to the claimant:

- (a) The county shall forward the form to the appropriate county, if known, or;
- (b) If the appropriate county is not known, the county shall return the form to the claimant with a Notice of Action (NOA) explaining the reason why the claim cannot be processed.

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50-010 GREEN V. OBLEDO (Continued)

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- .324 Claims submitted on or before the dates listed in .314 above shall be held pending receipt of county requested information for a period no longer than thirty days after the request for additional information is made. At the end of the thirty-day period, the county shall, based on the information available, determine eligibility and make retroactive payment or deny the claim in accordance with .327, .4, and .5 below.
- .325 Claims submitted after the dates listed in .314 above shall be denied except as provided in .326 below.
- .326 Claims submitted after the final filing date which have been date stamped by another county in accordance with .322 above shall be deemed submitted on the earliest date stamped on the claim provided that the following conditions are met:
- (a) the earliest date stamp appearing on the claim form must be prior to the final filing date, and,
 - (b) the claim must have been resubmitted by the claimant within 15 days after the date of the most recent notice of action specified in .323(b) above.
- .327 The county shall determine eligibility and issue retroactive payment to eligible individuals or deny the claim, as appropriate, within sixty calendar days of receipt of the claim form(s) for retroactive benefits. Within this same sixty-day period, the county shall issue a NOA to applicants for retroactive benefits indicating the disposition of their claims, the computation of retroactive payments, and their right to request a state hearing.
- .328 The county shall submit to State Department of Social Services (SDSS) two statistical reports. The first report shall be submitted on or before March 1, 1985 and the second report shall be submitted not later than May 1, 1985. These reports shall specify the number of claims filed, the number of claims allowed or disallowed, the total monies paid in retroactive benefits and in interest, the number of case reconstructions required in accordance with Section 50-010.51, and the methods by which claimants were informed of the availability of retroactive payment(s).

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.4 Determination of Potential Eligibility for Retroactive Payment(s)

.41 Individuals potentially eligible to receive retroactive payments are persons who had earnings and received AFDC or were denied AFDC due to excess income for any period from January 1, 1974 through November 9, 1981. This includes those persons who had an overpayment computed for any period from January 1, 1974 through November 9, 1981.

.42 Verification of receipt or denial of AFDC shall not be required for those individuals whose case records are not available. However, in these instances, the claimant shall support his/her statement as to receipt or denial of AFDC by detailed statements that fully respond to questions contained on the claim form.

.421 Verification of receipt of AFDC includes the following:

(a) Proof of receipt of AFDC for persons claiming retroactive benefits shall be obtained from the case record if it is available.

(b) If the aid case record is unavailable, sources of verification which the claimant may provide include, but are not limited to:

(1) The claimant's Medi-Cal card for the aid month showing the AFDC case number.

(2) A signed statement from a physician or pharmacist who provided services to the claimant during the aid month attesting that the costs of those services were billed to Medi-Cal and under which AFDC case number they were billed.

(3) A copy of a Notice of Intended Action or a state hearing decision indicating the claimant was an AFDC recipient during the aid month.

(4) Copies of any other official documents indicating the claimant's welfare status during the aid month.

.422 Verification of denial of AFDC or of an overpayment includes but is not limited to the NOA sent the claimant.

.423 In the absence of verification of receipt or denial of AFDC or overpayment recoupment, the claimant's sworn statement shall be accepted, if supported by statements made on the claim form. The county is not precluded from making further inquiries where it determines this is necessary.

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.43 If the assistance unit received the Maximum Aid Payment (MAP) in the aid month individuals in that assistance unit are ineligible for retroactive benefits.

.431 MAP levels from January 1, 1974 through November 9, 1981.

FAMILY SIZE	TIME PERIOD									
	1/01/74 to 6/30/74	7/01/74 to 6/30/75	7/01/75 to 6/30/76	7/01/76 to 12/31/76	1/01/77 to 6/30/77	7/01/77 to 6/30/79	7/01/79 to 6/30/80	7/01/80 to 12/31/80	1/01/81 to 6/30/81	7/01/81 to 11/09/81
1 Person	120	129	144	157	166	175	204	232	227	248
2 Persons	197	212	237	258	273	287	331	362	374	408
3 Persons	243	262	293	319	338	356	410	473	463	506
4 Persons	290	311	349	379	402	423	487	563	550	601
5 Persons	331	355	399	433	459	483	556	642	628	686
6 Persons	372	400	448	487	516	543	625	722	706	771
7 Persons	408	438	491	534	566	596	686	792	775	846
8 Persons	444	477	535	581	616	649	747	862	844	922
9 Persons	480	516	578	628	666	701	807	932	912	996
10 Persons	516	554	622	675	716	754	868	1002	981	1071

.44 If the assistance unit's net earnings which were used to compute the grant in the aid month were reduced to zero after the application of all earned income deductions, individuals in that assistance unit are ineligible for retroactive benefits.

.5 Determination of the Amount of Retroactive Payment(s)

.51 The county shall determine or reconstruct essential case information for the aid month based on information from the claim month. If the case record is available this information may be taken from it. If the case record is unavailable, this data shall be reconstructed through use of facts supplied by the claimant on the claim form. The following shall be determined or reconstructed for each claim:

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50-010 GREEN V. OBLEDO (Continued)

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511 Family Budget Unit (FBU) composition, MAP for the FBU, and grant amount paid in the aid month or the overpayment assessed for the aid month.

(a) In reconstructing the grant or overpayment, earnings and mandatory deductions shall be verified through wage stubs, employer contacts, or other methods unless good reason exists for the inability of the claimant to obtain verification. The county may make any third party contacts it determines to be necessary; a consent form shall be used for this purpose in accordance with EAS Section 40-157.22.

(1) If good reason exists, as determined by the county, the claimant's sworn statement of wages received and deductions withheld shall be accepted.

(A) Good reason includes, but is not limited to:

(i) Destruction of the employer's records.

(ii) Permanent closure of employer's business.

(iii) Refusal or inability of the employer to supply verification.

(2) If verification is not obtained and good reason does not exist, the claim shall be denied. An example of the absence of good reason is the claimant's assertion that he/she does not remember where he/she was employed.

.512 The amount of work-related transportation expense allowed in the aid month and the number of miles driven to and from work in the claim month.

(a) Persons who are self-employed may claim only mileage to and from the work site.

(b) In reconstructing the grant, the county shall multiply the number of work miles driven in the claim month by the cents/mile rate applicable in the claim month to determine the amount of transportation costs originally allowed for the claim month.

For example:

(1) If the claimant drove his/her own car, the following rates applied:

January 1, 1974 - December 31, 1976:

\$.12/mile

January 1, 1977 - November 9, 1981:

\$.15/mile

(2) If the claimant rode with another person(s), the following rates applied:

January 1, 1974 - December 31, 1976:

\$.06/mile

January 1, 1977 - November 9, 1981:

\$.07/mile

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50-010 GREEN V. OBLEDO (Continued)

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.513 The amount and type of other work-related expenses allowed in the aid month.

.52 Determination of allowable work-related costs.

.521 Costs shall be allowed only if paid and shall be allowed either on an "as paid" or "as incurred" basis, whichever is consistent with the method used by the county during the retroactive period for allowance of work-related costs.

.522 Types of allowable costs include, but are not limited to:

(a) Transportation costs:

- (1) amounts for gas, tires, oil
- (2) car payments (principal and interest)
- (3) car insurance, license, and registration fees
- (4) mechanical repairs
- (5) repairs or replacement, if directly related to safety (e.g., windshield replacement)
- (6) actual costs for riding with another person(s)

(b) Other work-related costs not supplied or reimbursed by the employer, including but not limited to tools, uniforms, and special equipment necessary for employment.

.523 All expenses shall be verified to the extent possible, except for the cost of oil and reasonable amounts paid for gasoline.

(a) The amount claimed for gasoline shall be considered reasonable if, in the claim month, it does not exceed the following limits:

During calendar year: The equivalent of:

1974	\$.57/gal.
1975	.61/gal.
1976	.64/gal.
1977	.67/gal.
1978	.69/gal.
1979	1.10/gal.
1980	1.31/gal.
1981	1.46/gal.

Source: U.S. Department of Energy Tables

(b) No gasoline costs exceeding the amounts in (a) above shall be allowed without proof of the cost paid as provided in .524(a) and (b).

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50-010 GREEN V. OBLEDO (Continued)

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.524 The county may make any third party contacts it determines to be necessary to substantiate information contained on the claim form(s); a consent form shall be used for this purpose in accordance with EAS Section 40-157.22.

(a) Verification includes, but is not limited to:

(1) Cancelled checks, money order receipts

(2) Receipts

(3) Photocopies of statements

(4) Signed statement from a vendor attesting to type of expense, amount and date of payment, and purchaser's name.

(b) If proof is not provided, the claimant shall be required to explain what attempts were made to obtain such proof and why it is unavailable. The county shall then determine if there is good reason for lack of verification.

(1) If good reason exists, as determined by the county, the claimant's sworn statement as to costs incurred or paid (see Section 50-010.521) shall be accepted.

(A) Good reason includes, but is not limited to:

(i) Destruction of the vendor's records.

(ii) Permanent closure of the vendor's business.

(iii) Refusal or inability of the vendor to supply verification.

(2) If acceptable verification has not been provided and good reason does not exist, the costs for such items shall not be allowed. An example of the absence of good reason is the claimant's assertion that he/she does not remember to whom the bill was paid and the city in which the vendor's company operated.

.53 Computation of the Retroactive Payment

.531 The amount of retroactive payment shall be computed on a month-by-month basis.

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50-010 GREEN V. OBLEDO (Continued)

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- .532 For each vehicle, compute the net allowable work-related transportation costs as follows:
- (a) Determine the allowable transportation expenses (see Section 50-010.52).
 - (b) Determine the percentage of the claimant's work-related miles to total miles driven (as shown on the application for retroactive benefit).
 - (1) If the claimant indicates on the claim form that the work-related mileage driven during the claim month was unusually low, the county shall examine the reason(s) for the unusual mileage.
 - (A) If the work-related mileage dropped due to the unavailability of the claimant's car (e.g., car in the shop for a few days, car stolen) then the usual mileage listed in the claim form shall be used.
 - (B) If the decrease in work-related mileage is due to other factors such as vacation taken during the claim month, a change in the location of the job site or the obtaining of a different job, the actual work-related mileage driven as listed in the claim form shall be used.
 - (c) Apply the percentage in (b) above to the total allowable transportation costs in (a) above.
 - (d) Subtract any contribution made by others for work-related transportation and any amounts reimbursed by the employer. The difference between the remainder and the amount originally allowed for transportation costs (see .512 above) shall be the net allowable transportation cost.
- .533 Determine other net allowable work-related costs in the following manner:
- (a) Determine the total allowable other work-related costs (see .521(b) above).
 - (b) Subtract any contribution or reimbursement made by the employer.
 - (c) Subtract any amounts already allowed (see .513 above).
- .534 The total net allowable work-related costs shall be the sum of .532 and .533 above.

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50-010 GREEN V. OBLEDO (Continued)

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.535 The retroactive payment shall be:

- (a) For cases which were denied AFDC due to excess net income, the retroactive payment shall be the grant amount to which the individual would have been entitled had actual work-related costs been used.
- (b) For cases in which the AFDC grants were computed based on 44-113.241, the retroactive payment shall be the original net earnings used to compute the FBU's grant in the aid month or the total net allowable work-related cost as determined in .534 above, whichever is less.
- (c) For cases in which there are earnings and for which an overpayment due to income or need is being recalculated:
 - (1) Where use of actual work-related costs results in a lesser overpayment, the retroactive payment shall be the difference between the original overpayment amount and the overpayment amount determined using actual work-related costs.
 - (2) Where use of actual work-related costs irradicates the original overpayment, the retroactive payment shall be the difference between the grant that should have been paid (using actual work-related costs) and the original amount paid plus the amount of the originally assessed overpayment.
- (d) For cases in which an overpayment which occurred during the retroactive period is being newly computed.
 - (1) Where use of actual work-related costs results in an overpayment, no retroactive payment shall be made and no interest shall be computed.
 - (2) Where use of actual work-related costs creates an underpayment, the retroactive payment shall be the difference between the grant that should have been paid (using actual work-related costs) and the original grant amount.

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50-010 GREEN V. OBLEDO (Continued) 50-010

54 Computation of Interest on Retroactive Payment

541 Interest shall be computed on the amount of the retroactive payment on a month-by-month basis in the following manner:

- (a) Interest for each retroactive payment the claimant should receive is computed from the date the payment should have been paid originally. The interest rate shall be seven percent annually through 12/31/81 and ten percent annually from 1/1/82 thereafter.
- (b) The interest shall be computed up to the date that the retroactive payment is made. Partial month computations shall be made on the basis of a 360-day year.
- (c) Example:

Claim Month: 6/76
 Aid Month: 8/1/76
 Retroactive Payment Amount: \$100.00
 Retroactive Payment Authorization Date: 9/10/84
 Computation of the interest on the retroactive payment is as follows:

8/01/76 - 7/31/81 = 5 years : 7% x \$100 x 5 years = \$35.00
 8/01/81 - 12/31/81 = 5 months: 7% x \$100 x 5/12 = 2.92
 1/01/82 - 12/31/83 = 2 years : 10% x \$100 x 2 years = 20.00
 1/01/84 - 8/31/84 = 8 months: 10% x \$100 x 8/12 = 6.67
 9/01/84 - 9/10/84 = 10 days : 10% x \$100 x 10/360 = .28
 Interest on 8/1/76 retroactive payment \$64.87

55 Delivery of the Retroactive Payment and Interest

551 The interest in 541 above, shall be added to the retroactive payment in 535 above, to determine the total payment due the claimant.

552 The retroactive payment in 534 above, plus the interest in 541 above, shall be used to offset any collectable outstanding overpayment (see EAS 44-351.3). Any amount in excess of the overpayment shall be paid to the claimant.

553 Although the amount of retroactive payment and interest must be computed on a monthly basis, the county may consolidate payments covering more than one month as long as the time requirements in Section 50-010.327 are met.

554 The retroactive payment including interest received by a recipient shall not be considered income or property in the month of receipt or in the following month (see EAS 42-213.2(h)).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.
 Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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Repeal Section 50-011:

50-011 ZAPATA V. WOODS

50-011

.1 Background

On April 20, 1981, the Los Angeles Superior Court issued a judgment invalidating EAS Sections 44-205 and 44-206 insofar as they deny AFDC benefits to needy relatives on the sole grounds that all dependent children in the family unit are receiving Supplemental Security Income (SSI). The judgment was stayed while the Department's appeal was pending.

On October 3, 1983, the United States Supreme Court refused to hear the Department's appeal of the judgment. By refusing to hear the case, the Supreme Court upheld the order issued by the Superior Court. Under the terms of the order, the Department must implement within 120 days the portion of the order requiring retroactive benefits.

The time period for retroactive benefits under the Superior Court order is from January 27, 1975 through January 31, 1984. The following provisions describe the procedure by which retroactive AFDC benefits will be claimed and eligibility for benefits determined.

.2 Informing Potentially Eligible Persons of the Availability of Retroactive Payments

.21 In order to notify the class of potentially eligible persons, the Department shall:

.211 Enclose a notice informing current blind and disabled SSI recipients of the Zapata v. Woods decision with each February 1984 Medi-Cal card.

.212 Issue posters in English and Spanish informing the general public of the Zapata v. Woods decision.

(a) These notices shall be posted in county welfare departments and local Social Security Administration offices from January 23, 1984 until May 23, 1984.

.213 Issue letter-size notices identical to the poster, to each local office of the county welfare departments and 150 copies to plaintiff's counsel.

.22 In order to notify the class of potentially eligible persons, the county welfare department (CWD) shall:

.221 Post State Department of Social Services (SDSS) supplied posters in a conspicuous location in each local office of the CWD from January 23, 1984 through May 23, 1984.

.222 Give to any person who so requests, a letter-size notice identical to the poster.

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50-011 ZAPATA V. WOODS (Continued)

.3 Application for Retroactive Payment and Claims Processing

.31 Claimant Responsibility

- .311 The claimant shall contact the CWD to obtain an application/claim form (TEMP 1587).
- .312 The claimant shall complete the claim form, sign it under penalty of perjury and send the form to the CWD in the county where he/she lives.
- .313 The claim form shall be submitted to the CWD by April 30, 1984. Claims submitted after this date shall be denied. Unless the evidence indicates otherwise, the date submitted shall be determined as follows:
 - (a) If the claim is mailed to the CWD, the postmark date of the envelope; or
 - (b) If the claim is delivered in person to the CWD, the date stamped on the claim; or
 - (c) If the date cannot be determined by (a) or (b) above, the date the claim was signed.
- .314 The claimant may resubmit a previously denied claim or portion thereof if the date of resubmittal is in accordance with .313 above.
- .315 The claimant shall cooperate in obtaining all information/verification necessary to process the claim in accordance with MPP Section 40-157. Failure to provide the needed information/verification shall result in denial of that portion of the claim which the information/verification is for. See Section 50-011.47.

.32 CWD Responsibility

- .321 The CWD shall provide in person or by mail an application/claim form (TEMP 1587) to the claimant upon request.
- .322 The CWD shall stamp each claim with the date the form was submitted as specified in .313. above.
- .323 If the CWD receives a claim form on which the claimant indicates another CWD as the CWD which denied or discontinued aid, and the claimant is unable to provide verification of the denial or discontinuance, the CWD shall request a copy of the denial or discontinuance notice from the CWD indicated on the claim form.

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50-011 ZAPATA V. WOODS (Continued)

50-011

- .324 If a CWD receives a claim form on which the claimant indicates he/she lives in another county, the CWD shall forward the claim to that county for the determination of eligibility and the amount of retroactive aid. In addition, the first CWD shall inform the claimant in writing that his/her claim has been forwarded to the welfare department in the county where he/she lives.
- (a) The date of submittal of the claim form by the claimant shall be the date it was submitted to the first CWD as specified in .313 above.
- .325 The CWD shall determine eligibility and issue retroactive aid to eligible claimants or deny the claim, as appropriate, within 60 calendar days of receipt of the claim form except as provided in (b) below.
- (a) Within this same 60-day period, the CWD shall issue a Notice of Action explanation to the claimant for retroactive aid indicating: (1) disposition of the claim, (2) computation of retroactive aid, and (3) the claimant's right to request a state hearing.
- (b) Inability to complete the determination of eligibility within the 60-day period shall not be a basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the gathering of evidence in accordance with Section 40-157. The specified time limit may be exceeded in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the CWD. In these instances the case record must show the cause for delay.
- .326 The CWD shall submit to the State Department of Social Services (SDSS) a statistical report on or before July 12, 1984. The report shall be submitted on a form provided by SDSS and shall contain:
- (a) The number of Zapata claims received;
- (b) The number of Zapata claims denied;
- (c) The number of Zapata claims granted in full or in part;
- (d) The number of Zapata claims pending a decision as of June 30, 1984;
- (e) The total dollars paid to Zapata claimants;
- (f) The number of Zapata claims granted in full or in part in which GA/GR was used in the benefit computation, and
- (g) The total dollar value of GA/GR used in the benefit computation.

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.4 Determination of Potential Eligibility for Retroactive Payments

- .41** Needy relatives potentially eligible to receive retroactive payments are caretaker relatives/parents whose AFDC benefits were denied or discontinued any time from January 27, 1975 through January 31, 1984 solely because the only child(ren) for whom aid was requested received SSI.
- .411** The period of potential eligibility for retroactive aid of an individual claimant begins on the date of his/her application for AFDC which was denied, or the effective date of discontinuance from AFDC if the action occurred later than January 27, 1975 and ends November 30, 1983.
- .412** The period of potential eligibility is limited to the period of time the child(ren) received SSI.
- .42** Needy relatives potentially eligible to receive retroactive payments must have met the following linking and nonlinking factors of AFDC eligibility in effect during the period for which retroactive aid is being claimed:
- .421** Basis of deprivation: for AFDC-FG as specified in MPP Section 41-400; for AFDC-U as specified in MPP Section 41-440.1;
- .422** Age of the child(ren) as specified in MPP Section 42-101;
- .423** Income eligibility of the needy relative(s) as specified in .46 below;
- .424** Resource limits of the needy relative(s) as specified in MPP Chapter 42-200, including the provision for resources excluded pursuant to MPP Section 42-213.2(t);
- .425** Residence and citizenship of the needy relative(s) as specified in MPP Chapter 42-400;
- .426** Qualification of the needy relative as a caretaker relative as specified in MPP Section 44-203; and
- .427** Institutional status of the child(ren) as specified in MPP Chapter 42-500.
- .43** Failure to provide the information on the claim form necessary to establish eligibility regarding the factors specified in .42 above shall result in denial of that portion of the claim for which the factor(s) of eligibility is (are) not established in accordance with .47 below.

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.44 Verification of the eligibility factors contained in .41 and .42 above is required. If verification is unavailable, certification as specified in .444 is required.

.441 Verification supporting .41 above includes the following:

- (a) Proof of denial/discontinuance from AFDC. The CWD shall provide the information from the case record if it is available.
- (b) If the case record is unavailable, verification which the claimant may provide includes, but is not limited to:
 - (1) A copy of a Notice of Action or a state hearing decision indicating that the claimant was denied or discontinued AFDC for the sole reason that the only child(ren) received SSI.
 - (2) A copy of any other official document indicating the claimant's denial or discontinuance of AFDC for the sole reason that the only child(ren) received SSI.
- (c) Proof of the period of time the child(ren) received SSI. The proof shall be obtained pursuant to .442 below.

.442 Verification supporting .42 above includes the following:

- (a) The verification requirements contained in each MPP section specified under .42, except .422.
- (b) Information received from the Social Security Administration (SSA).

.443 The CWD shall request from the local office of the SSA the following information using form SSA-1610-U2 unless the claimant chooses to provide verification of (a), (b), and (c) below. A separate form must be submitted for each child in the home.

- (a) The time period the child received SSI.
- (b) The date of birth of the child.
- (c) The gross amount of earned and unearned income of the parent as contained in the SSA files.

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.444 If the verification specified in .441 and .442(a) is not reasonably available the claimant must provide the reason(s) on the claim form. The CWD may make any third-party contacts it determines to be necessary. A consent form shall be used for this purpose in accordance with MPP Section 40-157.22.

(a) Acceptable reasons for the unavailability of verification include, but are not limited to:

- (1) The destruction or loss of records.
- (2) Inability on the part of the claimant to locate the third party in order to supply the verification.
- (3) The refusal or inability on the part of the third party to supply the verification.
- (4) Other circumstances beyond the control of the claimant.

(b) If verification is not obtained and the CWD determines it is reasonably available, the CWD shall request the verification in accordance with .47 below.

.445 Information received from the SSA shall be compared to the information provided by the claimant.

(a) The information provided by the SSA regarding the time period the child(ren) received SSI shall be used to determine the retroactive aid period.

(b) The information provided by the SSA regarding the date of birth of the child(ren) shall be used to determine the retroactive aid period.

(c) The information provided by the SSA regarding the amount of gross earned and unearned income of the parent(s) would require the CWD to send a notice in accordance with .47 below only when the parent(s) indicated no income on the claim form. Otherwise when a parent(s) has provided information/verification regarding income, that information/verification shall be used for the eligibility and retroactive payment determinations even when it differs from SSA information.

.446 Discrepancies arising as a result of a third-party contact shall be resolved in accordance with MPP Section 40-157.

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- .45 The size of the Assistance Unit shall be based on the number of persons who may be included in the Assistance Unit specified in MPP Section 44-203, and for whom retroactive aid is being claimed.
- .451 If retroactive aid is claimed for a person not entitled to be included in the Assistance Unit as specified in MPP Section 44-203 or who must be excluded as specified in MPP Section 44-206, that portion of the claim shall be denied.
- .452 If retroactive aid is claimed for both the caretaker relative and the spouse of the caretaker relative living in the home who may be included in the Assistance Unit, both shall sign the claim form.
- (a) If either one or both of the relatives fails to sign the claim form the CWD shall not include that relative in the Assistance Unit, and shall issue a denial notice after requesting a signature in accordance with .47 below.
- .46 150 Percent Income Limit on Eligibility
- .461 The Assistance Unit, as determined in .45 above, is ineligible for any calendar year or portion thereof being claimed, within the period from December 1, 1981 through January 31, 1984 when: (a) the total gross income of the family for the calendar year or portion thereof exceeds 150 percent of MBSAC for the number of persons in the Assistance Unit. Gross income is defined in Chapter 44-100 with the exceptions listed in MPP Section 44-207.211. When the gross income includes the income of a parent living in the home who is not included in the Assistance Unit, the MBSAC shall be increased by one for him/her.
- .462 The value of 150 percent of MBSAC from December 1, 1981 through November 30, 1983 is as follows:

Time Period	
12/1/81	7/1/83
to	to
6/30/83	12/31/83

1 person:	\$372	\$387
2 persons:	612	636

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Example: An Assistance Unit of one is otherwise eligible to receive retroactive aid from January 1981 through June 1983. He/she reports gross income received: (1) between March 1982 through November 1982 of \$3420; and (2) between January 1983 through June 1983 of \$2280. The calculation of the 150 percent income limit of eligibility is as follows:

1982

- (1) Determine number of months being claimed (12).
- (2) Multiply number of months by value of 150 percent of MBSAC in .462 above for correct assistance unit size ($12 \times \$372 = \4464).
- (3) Compare gross income to total 150 percent limit in (2) (\$3420 to \$4464). The Assistance Unit is eligible for 1982 because its gross income is less than 150 percent of MBSAC.

1983

- (4) Determine number of months being claimed (6).
- (5) Multiply number of months by value of 150 percent of MBSAC in .462 above for correct assistance unit size ($6 \times \$372 = \2232).
- (6) Compare gross income to total 150 percent limit in (5) (\$2280 to \$2232). The Assistance Unit is ineligible for 1983 because its gross income is greater than 150 percent of MBSAC.

- .47 The CWD shall request missing or incomplete information or verification it determines should be available which is necessary to determine eligibility and benefit levels. Claims submitted on or before the dates listed in .313 above shall be held open pending receipt of county-requested information for 30 days after the request for additional information is made. At the end of the 30-day period, the county shall, based on the information available, determine eligibility and make retroactive payment or deny the claim in accordance with .315, .325, and .4 above, and .5, and .6 below.

- (a) If the claimant requests assistance, the CWD shall in accordance with MPP Sections 40-107.1 and 40-157.2 assist the claimant as needed in establishing his/her eligibility.

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.5 Determination of the Amount of Retroactive Payment

.51 Basic Grant: The amount of the basic grant shall be calculated as follows:

.511 Based on the size of the Assistance Unit determined in .45 above, determine the Maximum Aid Payment (MAP) for the period of the claim which the claimant is eligible to receive.

.512 MAP levels from January 1, 1975 through January 31, 1984 are as follows:

	Time Period				
	1/1/75 to 6/30/75	7/1/75 to 6/30/76	7/1/76 to 12/31/76	1/1/77 to 6/30/77	7/1/77 to 6/30/79
1 person:	129	144	157	166	175
2 persons:	212	237	258	273	287

	Time Period				
	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	7/1/81 to 6/30/83	7/1/83 to 1/31/84
1 person:	201	232	227	248	258
2 persons:	331	382	374	408	424

Example: An Assistance Unit of one is eligible to receive retroactive aid from January 1977 through May 1978 and from January 1979 through December 1980. The calculation of the MAP amount is as follows:

- (1) Aid for 1/1/77 through 6/30/77 = \$996
(6 months x \$166)
- (2) Aid for 7/1/77 through 5/31/78 = \$1,925
(11 months x \$175)
- (3) Aid for 1/1/79 through 6/30/79 = \$1,050
(6 months x \$175)
- (4) Aid for 7/1/79 through 6/30/80 = \$2,412
(12 months x \$201)
- (5) Aid for 7/1/80 through 12/31/80 = \$1,392
(6 months x \$232)
- (6) Basic grant for claim period = \$7,775
((1)+(2)+(3)+(4)+(5))

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.52 Calculate the amount of net nonexempt income of the Assistance Unit.

.521 For income received from January 27, 1975 through November 30, 1981, calculate net nonexempt income as follows:

- (a) Determine the amount of gross earnings received in the claimant's eligible claim period occurring in this time period. For self-employed individuals, determine the total profit in accordance with MPP Section 44-113.212.
- (b) Compute the number of months which the earnings covered.
- (c) Multiply the number of months determined in (b) by \$30.
- (d) Subtract the amount derived in (c) above from the gross earnings.
- (e) Subtract from the remainder determined in (d) one-third of the remainder.
- (f) Subtract from the remainder determined in (e) the mandatory deductions and work-related expenses which the claimant is entitled to receive. Mandatory deductions and work-related expenses shall be disallowed when the information or proof provided on the claim form is insufficient to establish the deduction as an allowable expense.
 - (1) The allowable mandatory deductions are: local, state, and federal income tax; social security and compulsory retirement; unemployment and disability insurance contributions.
 - (2) The allowable work-related expenses are: child care expenses, and work-related costs incurred or paid by the claimant.
 - (A) Types of allowable work-related costs include, but are not limited to: transportation costs, amount for gas; tires; oil; car payments; car insurance; license and registration fees; mechanical repairs; repairs or replacement, if directly related to safety; and actual cost for riding with another person(s) and other work-related costs not supplied or reimbursed by the employer including, but not limited to, tools; uniforms; and special equipment necessary for employment.
 - (3) Proof supporting the mandatory deductions and work-related expenses includes those specified in MPP Section 44-113 in effect during the period for which retroactive aid is being claimed. If the verification is not reasonably available the claimant shall provide the reason(s) on the claim form. Acceptable reasons for unavailability are contained in .444(a) above.

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- (g) Add to the amount determined in (f), all unearned income received by the Assistance Unit, and any aid payments including but not limited to General Relief received during the eligible claim period.
- (h) Subtract from the total determined in (g) any mandatory child support payments claimed.
- (i) The amount determined in (h) is the net nonexempt income.

Example: The claimant reported income during his/her eligible retroactive period from January 1977 through May 1978 and from January 1979 through December 1980. The calculation of the net nonexempt income is as follows:

- (1) Gross earnings received: \$6,900
- (2) Number of months which the earnings covered: 41
- (3) 41 months x \$30 = \$1,230
- (4) \$6,900 - \$1,230 = \$5,670
- (5) \$5,670 - \$1,890 (\$5,670 divided by 3) = \$3,780
- (6) \$3,780 - \$780 (mandatory deduction/work-related expenses) = \$3,000
- (7) \$3,000 + \$210 (unearned income received) = \$3,210

.522 For the period from December 1, 1981 through January 31, 1984, calculate net nonexempt income for the income received in the claimant's eligible claim period within this time period in accordance with MPP Section 44-100 except that the calculation shall be for the entire period claimed instead of a month. The \$30 and 1/3 disregard shall only be given for the appropriate number of months in accordance with MPP Section 44-111.23.

.523 Combine the amounts calculated in .521 and .522 to determine the total net nonexempt income of the Assistance Unit.

.53 Calculate the amount of retroactive payment as follows:

.531 From the amount of basic grant determined in .51 above, subtract the amount of net nonexempt income determined in accordance with .52 above. The remainder is the amount of retroactive payment.

Example:

Basic Grant Determined in .51:	\$ 7,775
Less Net Nonexempt Income	
Determined in .52:	-3,210
Amount of Retroactive Payment:	<u>\$ 4,565</u>

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.6 Delivery of the Retroactive Payment

- .61 The payment shall be delivered in accordance with MPP Section 44-305.26.
- .62 The retroactive payment in .531 above shall be used to offset any collectable outstanding overpayment in accordance with MPP Section 44-351.3. Any amount in excess of the overpayment shall be paid to the claimant.
- .63 The retroactive payment received by the claimant shall not be considered income or property for AFDC in the month of receipt or in the following month in accordance with MPP Section 42-213.2(h).
- .64 Concurrent with the retroactive payment shall be a Notice of Action explaining to the claimant how the retroactive payment was computed and his/her right to request a state hearing.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 50-012:

50-012 WILLIAMS V. WOODS

50-012

.1 Background

On March 9, 1984 a Peremptory Writ of Mandate was filed in San Francisco Superior Court in the Williams v. Woods class action lawsuit. The Writ orders SDSS to cease enforcement of Manual of Policy and Procedures (MPP) Sections 44-113.3, 44-115.72, 44-115.81, 44-133.1, and 44-205.231 to the extent that these regulations conclusively presume either that in-kind income and OASDI benefits for the minor parent are separate resources independently available to the minor parent or that OASDI benefits for the minor parent are available to the Assistance Unit (including the minor parent and child) when the minor parent lives with a nonneedy parent who is the representative payee for the OASDI. Therefore, the Writ does not apply to minor parents who do not receive OASDI benefits or to minor parents who live with needy parents or those who do not live with a parent.

The period for retroactive benefits is November 12, 1978 through May 31, 1984. The writ requires that, within 100 days of its filing, the members of the class be notified of potential eligibility for retroactive benefits, to be accomplished by a mailing to current AFDC recipients and posters in specified locations.

The following provisions describe the procedures by which retroactive aid will be claimed and eligibility for benefits determined.

.2 Informing potentially eligible persons of the availability of retroactive benefits.**.21 In order to notify the class of potentially eligible persons, SDSS shall:**

.211 Develop and provide CWDs camera-ready copies of the combined notice/claim form in English and Spanish. This form will notify potential claimants of the terms of the Williams judgment and how to apply for retroactive benefits.

.212 Develop and issue posters in English and Spanish which will inform potential claimants of the Williams judgment and how to apply for retroactive benefits.

(a) These posters shall be provided to all county welfare offices and to all Social Security Administration (SSA) offices.

.22 In order to notify the class of potentially eligible persons, the County Welfare Department (CWD) shall:

.221 Print and mail the informing notice/claim form provided by the Department to all current AFDC recipients by June 1, 1984 with the CA 7s for May 1984, with the June 1, 1984 warrants, or by separate mailing. Spanish versions of the form shall be mailed to recipients that receive Spanish CA 7s.

.222 Post English and Spanish informing posters supplied by SDSS in lobbies and waiting rooms of all county welfare offices from June 1, 1984 through August 31, 1984.

.223 Forward a supply of the English and Spanish informing posters supplied by SDSS to all food stamp issuance outlets within the county with a request that the posters be displayed in lobbies and waiting rooms from June 1, 1984 through August 31, 1984.

.224 Give or mail a Williams notice/claim form to anyone who requests one.

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.3 Application for retroactive payment and claims processing.

.31 Claimant Responsibility

- .311 The claimant shall complete the claim form, sign it under penalty of perjury, and send or take it to the CWD(s) from which the claimant received aid or was denied or discontinued from aid during the months for which retroactive aid is being claimed. It shall be the claimant's responsibility to ensure the claim form is submitted to the appropriate county.
- .312 The claimant shall complete and send a separate claim form to each CWD from which the claimant wishes to claim retroactive benefits.
- .313 The claimant shall submit (or resubmit in the case of a previously denied claim) claim forms to the appropriate county (see .311 above) on or before August 31, 1984 except as specified in .325(c).
- .314 Claimants shall complete a Supplemental Claim Form when requested to do so by the CWD and shall return it to that CWD as soon as possible, but no later than 30 calendar days from the date of the CWD's request.
- .315 The claimant shall cooperate in obtaining all information/verification necessary to process the claim in accordance with MPP Section 40-157. Failure to provide the needed information/verification in accordance with time frames specified in .323 and .324 below shall result in denial of those months of the claim for which the information/verification is needed. See .47 below.

.32 County Responsibility

- .321 The CWD shall stamp each claim with the date the claim was received by the CWD and the name of the county of receipt.
- .322 If a CWD receives a claim form for a month in which it appears the claimant lived in another county:
 - (a) The CWD shall forward the form to the appropriate CWD, if known, and notify the claimant with the Notice of Action (NOA) specified by SDSS, or;
 - (b) If the CWD is not able to determine the appropriate CWD, the CWD shall return the form to the claimant with an NOA specified by SDSS denying the claim.
- .323 Within 30 calendar days of receipt of a claim by the appropriate CWD, the CWD shall determine if a case record exists. If the claimant meets the conditions specified in .41 below and no case record exists or the information it contains is insufficient to process the claim, the CWD shall send the claimant a Supplemental Claim Form and NOA explaining that this form must be completed and returned within 30 calendar days of the date of the notice.
- .324 If additional information/verification is needed, the CWD must provide the claimant with the appropriate notice requesting the additional information/verification. The CWD must allow the claimant a reasonable time for response in relation to the information being requested, but in no case less than 10 calendar days from the date of the notice.

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- .325 Claim forms shall be submitted on or before August 31, 1984, except as specified below.
- (a) The date submitted shall be determined as follows:
 - (1) The date the claim was stamped "received" by the appropriate CWD, or;
 - (2) If the date in (1) above is after August 31, 1984, the postmark date of the envelope, or;
 - (3) If the date cannot be determined by (1) or (2) above, the date the claim was signed.
 - (b) Claims submitted after the final filing date which have been date stamped by another county in accordance with .321 above shall be deemed submitted on the earliest date stamped on the claim provided that the following conditions are met:
 - (1) The claim was either forwarded by another CWD or was resubmitted by the claimant within 15 calendar days after the date of the NOA specified in .322(b) above; and
 - (2) The claim is resubmitted with that NOA attached.
 - (c) If the claimant was a current AFDC recipient as of June 1, 1984 and did not receive the notice/claim form by June 1, 1984, the August 31, 1984 deadline shall be extended by a corresponding number of days to allow a full three-month application period. If verification of the date of receipt is not available, the claimant's sworn statement explaining the circumstances causing late receipt shall be sufficient.
- .326 Claims submitted after the date specified in .325 above shall be denied.
- .327 The CWD shall determine eligibility and issue retroactive aid to eligible claimants or deny the claim, as appropriate, within either 60 calendar days of receipt of the notice/claim form or within 60 calendar days of receipt of a Supplemental Claim Form if the latter form is necessary. The CWD shall also send the appropriate NOA.
- (a) Inability to complete the determination of eligibility within the 60-day period shall not be a basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the gathering of evidence in accordance with Section 40-157.

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50-012 WILLIAMS V. WOODS (Continued)

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.328 The CWD shall submit to SDSS a statistical report on the form provided by SDSS as follows:

- (a) The report shall be submitted on or before December 12, 1984 and shall contain:
 - (1) The number of Williams claims received;
 - (2) The number of Williams claims denied;
 - (3) The number of Williams claims granted in full or in part;
 - (4) The total retroactive dollars paid to Williams claimants; and,
 - (5) The number of Williams claims pending disposition on November 30, 1984.
- (b) Those CWDs that have pending claims on the report specified in (a) above shall submit a second report to SDSS on or before January 7, 1985 which shall contain for those pending claims:
 - (1) The number of pending Williams claims denied;
 - (2) The number of pending Williams claims granted in full or in part; and
 - (3) The total retroactive dollars paid to the pending Williams claimants.

.4 Determination of Potential Eligibility for Retroactive Payments

.41 Persons potentially eligible for retroactive benefits are those persons who met all of the following conditions during any month between November 12, 1978 and May 31, 1984:

- .411 Parents under age 18 (minor parents) and/or their child(ren) (born or unborn) who lived together and who were applicants for or recipients of AFDC; and
- .412 Lived with the nonneedy parent(s) of the minor parent; and
- .413 The nonneedy parent of the minor parent was the representative payee for OASDI benefits received on behalf of the minor parent; and
- .414 The minor parent and child(ren) were otherwise eligible for AFDC and the AFDC grant was reduced or terminated or the AFDC application was denied due to income considered available to the assistance unit; and
- .415 The amount of OASDI considered in determining AFDC eligibility for the minor parent and child(ren) was greater than the amount of the OASDI benefit that was actually made available, in cash, to the minor parent.

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- .42 If retroactive benefits are being claimed for a period of time for which aid was denied or discontinued, the assistance unit must have met the following conditions of AFDC eligibility in effect during the period for which retroactive aid is being claimed as determined by information provided on and with the Supplemental Claim Form:
- .421 Basis of deprivation: for AFDC-Family Group (FG) as specified in MPP Chapter 41-400; for AFDC-Unemployed (U) as specified in MPP Section 41-440.1;
 - .422 Age of the child(ren) as specified in MPP Section 42-101;
 - .423 Income eligibility of the assistance unit as specified in .45 below;
 - .424 Resource limits of the assistance unit as specified in MPP Chapter 42-200;
 - .425 Residence and citizenship of the assistance unit as specified in MPP Chapter 42-400;
- .43 Verification of the factors contained in .41 is required for all claimants; and, in addition, verification of the eligibility factors contained in .42 is required for those claimants who were denied or discontinued from AFDC during the claim months unless the verification is not reasonably available. If verification is not reasonably available, the CWD shall act in accordance with .436 below.
- .431 Verification of receipt of AFDC includes the following:
- (a) Proof of receipt of AFDC for persons claiming retroactive benefits shall be obtained from the case record if it is available.
 - (b) If the case record is unavailable, sources of verification which the claimant may provide include, but are not limited to:
 - (1) A copy of an NOA or a state hearing decision indicating the claimant was an AFDC recipient during the month(s) aid is being claimed.
 - (2) Copies of any other documents indicating the claimant's welfare status during the month(s) aid is being claimed.
- .432 Verification of denial of or discontinuance from AFDC for excess income shall be obtained from the case record if it is available. If the case record is unavailable, verification which the claimant may provide includes, but is not limited to, the NOA sent the claimant.
- .433 Verification supporting .42 above includes the verification requirements contained in each MPP Section specified under .42.

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.434 If there is no case record available or the information in the case record is incomplete, the CWD shall request from the local office of the SSA the following information using Form SSA-1610-02 unless the claimant chooses to provide verification of (a) and (b) below.

(a) The time period and amount of OASDI benefits the minor parent received and the payee for the benefits.

(b) The date of birth of the minor parent.

.435 Verification of the amount of OASDI benefits made available in cash to the minor parent shall be the statements (provided on the notice/claim form) of the minor parent and the parent that received the OASDI benefits for the minor parent. The statement shall be signed under penalty of perjury except as provided in (a) below.

(a) The sworn statement of the minor parent's parent(s) shall not be required if the senior parent(s):

- (1) is deceased, or;
- (2) is incapacitated to such an extent that he/she is unable to provide a signature under penalty of perjury, or;
- (3) is unable to be located, or;
- (4) is no longer living in the United States, or;
- (5) refuses to sign the notice/claim form, or;
- (6) if other exceptional circumstances would prevent obtaining the senior parent(s) statement under penalty of perjury.

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.436 If the verification specified in .431 through .435 is not reasonably available, the claimant must provide the reason(s) on the claim form(s). If the reason(s) is/are acceptable as specified in .435(a) and .436(a), the claimant's sworn statement as provided on the notice/claim form and/or Supplemental Claim Form shall be accepted.

(a) Acceptable reasons for the unavailability of verification other than that required in .435 above include, but are not limited to:

- (1) The destruction or loss of records.
- (2) Inability on the part of the claimant to locate the third party in order to supply the verification.
- (3) The refusal or inability on the part of the third party to supply the verification.
- (4) Other circumstances beyond the control of the claimant.

(b) If verification is not provided and the CWD determines it is reasonably available under .435(a) and .436(a), the CWD shall request the verification in accordance with .47 below. The CWD shall provide assistance in obtaining verification as specified in .47. The CWD may make any third-party contacts it determines to be necessary. A consent form shall be used for this purpose in accordance with MPP Section 40-157.22.

.437 Discrepancies arising as a result of a third-party contact shall be resolved in accordance with MPP Section 40-157.

.44 The size of the Assistance Unit shall be based on the number of persons who would have been included in the Assistance Unit specified in MPP Section 44-205 for the period claimed.

.441 If retroactive aid is being claimed for a period of time that aid was denied or discontinued and retroactive aid is claimed for a person not entitled to be included in the Assistance Unit as specified in MPP Section 44-205 or who must be excluded as specified in MPP Section 44-206, that portion of the claim shall be denied.

.442 If retroactive aid is being claimed for a period of time that aid was denied or discontinued and retroactive aid is claimed for both the minor parent and the second parent who lived in the home and who may be included in the Assistance Unit, both shall sign the Supplemental Claim Form.

(a) If either the minor parent or the second parent fails to sign the claim form, the CWD shall request a signature in accordance with .47 below. If such signature is not provided, the CWD shall not include that parent in the Assistance Unit and shall so notify the claimant on the NOA specified by SDSS.

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50-012 WILLIAMS V. WOODS (Continued)

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.45 Income Eligibility

If retroactive aid is being claimed for a period of time that aid was denied or discontinued, the Assistance Unit is ineligible for any month that their income exceeded the income eligibility limits specified in 44-207 which were in effect during the period for which retroactive aid is being claimed.

.451 Income eligibility shall be determined for each month retroactive aid is claimed if the claimant provides information for each month. If information is not provided on a monthly basis, income eligibility shall be determined on an annual basis or portion thereof for the period claimed. The claimant shall have the option of providing income verification on a monthly or annual basis. (See example in 50-011.462 for method to compute income eligibility on an annual basis.)

.452 MBSAC levels from November 1978 through May 1984.

	11/78 to 6/30/79	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	7/1/81 to 6/30/83	7/1/83 to 5/31/84
1 person	177	204	235	231	248	258
2 persons	297	342	395	386	408	424
3 persons	361	416	480	470	506	526
4 persons	444	511	591	577	601	625
5 persons	513	590	682	667	686	713

.453 150 percent of MBSAC from December 1, 1981 through May 31, 1984.

	12/1/81 to 6/30/83	7/1/83 to 5/31/84
1 person	372	387
2 persons	612	636
3 persons	759	789
4 persons	902	938
5 persons	1029	1070

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50-012 WILLIAMS V. WOODS (Continued)

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.46 If retroactive aid is being claimed for a period of time for which AFDC was denied or for which AFDC was discontinued, the CWD shall establish that the minor parent's parent(s) (the senior parent(s)) was nonneedy. To determine neediness of the senior parent(s), the CWD shall compare the MBSAC amount for the number of persons to be supported by the senior parent(s) to the senior parent's net nonexempt income, except as specified in .461 below. This calculation shall include only the income of the senior parent(s). The income of the minor parent or other dependents shall not be included. The calculation shall also not include the OASDI benefits received by the senior parent on behalf of the minor parent. If the income of the senior parent(s) exceeds the MBSAC amount, the senior parent(s) was nonneedy, and the minor parent is potentially eligible for retroactive benefits. If the income of the senior parent(s) does not exceed the MBSAC amount, the senior parent(s) was needy, and the minor parent is not an eligible class member and not eligible for retroactive benefits. For net nonexempt income calculations prior to December 1, 1981, see .533(a) below, and for net nonexempt income calculations following December 1, 1981, see .533(b) below:

.461 If the minor parent is unable to provide information necessary to compute the neediness of the senior parent(s), the CWD shall accept the sworn statement of the senior parent(s) or minor parent certifying that the senior parent(s) had sufficient income to support the minor parent during the claim period to establish that the senior parent(s) was nonneedy.

.47 The CWD shall request missing or incomplete information or verification it determines should be available when necessary to determine eligibility and benefit levels. Claims submitted on or before the date listed in .325 above shall be held open pending receipt of information requested by the county for the period of time specified in .324 above after the request for additional information is made. During this period, the CWD shall provide assistance as specified in (a) below and may make any third party contacts as specified in .436(b) above. Upon receipt of the requested information or at the end of this period, the county shall, based on the information available, determine eligibility and make retroactive payment or deny the claim in accordance with .315, .327, and .4 above, and .5 and .6 below.

.471 If the claimant requests assistance, the CWD shall in accordance with MPP Sections 40-107.1 and 40-157.2 assist the claimant as needed in establishing his/her eligibility.

.5 Determination of the Amount of Retroactive Payment

.51 The amount of retroactive payment shall be computed on a month-by-month basis if the claimant provides information for each month. If information is not provided on a monthly basis, the amount of retroactive payment shall be computed on an annual basis or portion thereof being claimed. The claimant shall have the option of providing information on a monthly or annual basis. (See examples in 50-011.512, .521, and .531 for the method of computation of retroactive payment on an annual basis.)

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50-012 WILLIAMS V. WOODS (Continued)

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.52 Retroactive payments for claimants who received AFDC during the claim period (whether the case record is available or not) shall be computed as follows:

.521 For each month claimed that the Assistance Unit met the eligibility conditions in .41 above, determine the amount of OASDI benefits that was used in the original budget computation for the month claimed.

.522 From that amount, subtract the amount of OASDI benefits made available in cash to the minor parent (as specified on the notice/claim form) for the month claimed. The remainder is the amount of retroactive payment for that month. If the month claimed is November 1978, the monthly amount shall be prorated from the 12th of the month (the reciprocal is .6333) or from the application date, whichever is later, in accordance with the reciprocal table in MPP Section 44-315.53.

.53 Retroactive payments for claimants who were denied or discontinued from AFDC during the claim period shall be computed as follows:

.531 The county shall determine retroactive payment(s) for the month(s) claimed based on income and expenses from the corresponding budget month(s). Assistance Unit composition and other eligibility factors shall be based on the month(s) claimed.

.532 For each claim month that the Assistance Unit met the eligibility conditions in .41 and .42 above, determine the Maximum Aid Payment (MAP) for the Assistance Unit determined in .44 above.

(a) MAP levels from November 1, 1978 through May 31, 1984:

	11/1/78 to 6/30/79	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	7/1/81 to 6/30/83	7/1/83 to 5/31/84
1 person	175	201	232	227	248	258
2 persons	287	331	382	374	408	424
3 persons	356	410	473	463	506	526
4 persons	423	487	563	550	601	625
5 persons	483	556	642	628	686	713

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.533 Calculate the net nonexempt income of the Assistance Unit.

- (a) For income received from November 1, 1978 through November 30, 1981 calculate net nonexempt income as follows:
- (1) Determine the amount of gross earnings of the Assistance Unit for each month claimed.
 - (2) Subtract \$30 from gross earnings.
 - (3) From the remainder in (2) above, subtract 1/3 of the remainder.
 - (4) From the remainder determined in (3) above, subtract the mandatory deductions and work-related expenses which the claimant has verified in accordance with .43 above.
 - (A) The allowable mandatory deductions are: local, state, and federal income tax; social security (FICA) and compulsory retirement; unemployment and state disability insurance contributions.
 - (B) The allowable work-related expenses are: child care expenses, and work-related costs incurred or paid by the claimant.
 - i) Types of allowable work-related costs include, but are not limited to: transportation costs, amount for gas; tires; oil; car payments; car insurance; license and registration fees; mechanical repairs; repairs or replacement, if directly related to safety; actual cost for riding with another person(s); and other work-related costs not supplied or reimbursed by the employer including, but not limited to, tools, uniforms, and special equipment necessary for employment.
 - (C) Proof supporting the mandatory deductions and work-related expenses includes those specified in MPP Section 44-113 in effect during the period for which retroactive aid is being claimed. If the verification is not reasonably available the claimant shall provide the reason(s) on the claim form and the CWD shall act in accordance with .436 above. Acceptable reasons for unavailability of verification are contained in .436 above.

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50-012 WILLIAMS V. WOODS (Continued)

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- (5) Add to the amount determined in (4), all unearned income received by the Assistance Unit during the claim month. The amount of OASDI benefits used for this calculation shall be that amount of such benefits made available in cash to the minor parent (as specified on the notice/claim form) for the month claimed. In-kind income shall be deducted in accordance with MPP Sections 44-115.72 and 44-115.8.

(A) In-Kind Income Values for 1 Person from November 1, 1978 through May 31, 1984:

	11/1/78 to 6/30/79	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	7/1/81 to 6/30/83	7/1/83 to 5/31/84
Housing	78	90	104	102	111	115
Utilities	17	20	23	23	25	26
including Telephone						
Food	43	50	58	57	62	64
Clothing	14	16	18	18	20	21

- (6) Subtract from the total determined in (5) any court-ordered child or spousal support payments paid by a member of the Assistance Unit.

- (7) The amount determined in (6) is the net nonexempt income.

- (b) For each month claimed for the period from December 1, 1981 through May 31, 1984, calculate net nonexempt income for the income received by the Assistance Unit in accordance with MPP Chapter 44-100. In accordance with the Turner v. Woods court order, mandatory deductions (federal, state, and local taxes, Social Security taxes (FICA) and state disability insurance) shall be subtracted from gross earnings. The \$30 and 1/3 disregard shall only be given for the appropriate number of months in accordance with MPP Section 44-111.23. The amount of OASDI benefits used for this calculation shall be that amount of such benefits made available in cash to the minor parent (as specified on the notice/claim form) for the month claimed. In-kind income shall be deducted in accordance with MPP Sections 44-115.72 and 44-115.8.

- .534 Subtract the net nonexempt income determined in .533 above from the MAP determined in .532 above. The remainder is the amount of the retroactive payment for that month. If the month claimed is November 1978, the monthly amount shall be prorated from the 12th of the month (the reciprocal is .6333) or from the application date, whichever is later, in accordance with the reciprocal table in MPP Section 44-315.53.

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50-012 WILLIAMS V. WOODS (Continued)

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- .54 If the amount determined in .534 above is less than \$10 for any month from May 1982 through May 1984, the claimant is not eligible for a retroactive payment for that month.
- .55 The total of the amounts determined in .522 and/or .534 above for all months claimed is the total retroactive payment.
- .6 Delivery of the Retroactive Payment
 - .61 The payment shall be delivered within 10 calendar days of the date of authorization.
 - .62 The retroactive payment in .55 above shall be used to offset any collectable outstanding overpayment in accordance with MPP Section 44-351.3. Any amount in excess of the overpayment shall be paid to the claimant.
 - .63 The retroactive payment received by the claimant shall not be considered income or property for AFDC in the month of receipt or in the following month in accordance with MPP Section 42-213.2(h).
 - .64 Concurrent with the retroactive payment, the CWD shall send an NOA explaining to the claimant how the retroactive payment was computed and his/her right to request a state hearing.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

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.22 In order to notify the class of potentially eligible persons, the CWD shall:

- .221 Forward a supply of posters to county hospitals with the request that they be posted in a conspicuous location from the day they are received until May 31, 1986. Depending upon individual county arrangements, these hospitals could include county owned and administered as well as county contracted hospitals.
- .222 Prominently display the bilingual posters supplied by SDSS in each local office of the CWD from June 1, 1985 through May 31, 1986 and make the Lowry v. Oblado claim forms available to the public at the same locations.
- .223 Review all active AFDC-FG and U cases during the next annual redetermination process beginning June 1, 1985 through May 31, 1986 to determine whether any of the recipients are potentially eligible for these retroactive benefits. (See Section 50-013.41)
- .224 The county shall inform all persons identified as being potentially eligible in .223 above and provide them a claim form during the face-to-face interview.

.3 Application for Retroactive Payment and Claims Processing

.31 Claimant Responsibility

- .311 Claimants, except potential recipients identified in the redetermination review as required in 50-013.222, shall contact the CWD to obtain claim form.
- .312 A separate claim form shall be completed and sent to each county in which the claimant received or was denied aid and from which he/she wishes to claim retroactive benefits. It shall be the claimant's responsibility to ensure the claim form is mailed to the appropriate county.
- .313 Claim forms shall be submitted to the proper county by May 31, 1986 with the following exception. Current recipients who have their annual redetermination reviews during May 1986 or whose annual redetermination reviews are scheduled for May 1986 or earlier but the CWD is unable to meet this schedule, shall have 30 calendar days after the receipt of a claim form or until May 31, 1986, whichever is later, to submit the form.

Claims submitted after this final filing date shall be denied except as provided in .327 below. The date submitted shall be determined as follows:

- (a) If the claim is mailed to the CWD, the postmark date of the envelope; or
- (b) If the claim is delivered in person to the CWD, the date stamped by the CWD on the claim upon receipt; or
- (c) If the date cannot be determined by (a) or (b) above, the date the claim was signed.

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- .314 The claimant shall cooperate in obtaining all information and verification necessary to process the claim. Failure to provide the needed information and verification in accordance with time frames specified in .324 below shall result in denial of those months of the claim for which the information/verification is needed.
- .32 County Responsibility
- .321 The CWD shall provide in person or mail appropriate claim forms to the claimant upon request.
- .322 The CWD shall stamp each claim with the date the claim was submitted by the claimant as specified in .313 above, and the CWD to which it was submitted.
- .323 If the CWD receives a claim form for a month in which it neither paid nor denied aid to the claimant:
- (a) The CWD shall forward the form to the appropriate county, if known, within 10 working days of its receipt, and send a Notice of Action (NOA) to the claimant informing him/her of the action.
 - (b) If the appropriate county is not known, the CWD shall return the form to the claimant, within 10 working days of its receipt, with a NOA explaining the reason why the claim cannot be processed. The NOA must also include an explanation that the claim must be resubmitted with that Notice to the appropriate county within 15 days of the receipt of the NOA.
- .324 Upon receipt of a claim form the CWD shall:
- (a) Determine if the case record information is available. If the case record information is determined unavailable after a search, the CWD shall provide in person or mail a supplemental claim form and Notice to Transmit Supplemental Claim Form to the claimant within 15 working days of the receipt of a claim form, explaining that the form must be completed and returned with necessary documentation within 30 calendar days of the date of the Notice and that the claim will be denied if the form is not returned as requested. If the form is returned as requested but it is determined that it lacks the necessary information and/or documentation, then only those claim months for which such information and/or documentation is missing, will be denied.
 - (b) If the case record information is available, determine if the claim form is complete and sufficient documentation is provided. If not, within 15 working days of the receipt of the claim form, the CWD shall provide in person or mail a Request for Missing or Incomplete Information/Verification to the claimant requesting the additional information and/or documentation. The request must explain that the requested information and/or documentation must be returned within 30 calendar days of the date of the request and that only those claim months for which the requested information and/or documentation is not provided within the specified time frame, will be denied.

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- .325 Claims submitted on or before the date listed in .313 above shall be held open pending receipt of county requested information/documentation or a supplemental claim form for a period of 30 calendar days after the request for additional information/documentation is made or a supplemental claim form is provided to the claimant. During this period, the CWD shall provide assistance as specified in (a) below and may make any third party contacts as specified in .428(b) below. Upon receipt of the requested information or supplemental claim, or at the end of the period, the CWD shall, based on the information available, determine eligibility and issue retroactive aid or deny the claim in accordance with .314 above and .328, .4 and .5 below:
- (a) If the claimant requests assistance, the CWD shall, in accordance with MPP Sections 40-107.1 and 40-157.2 assist the claimant as needed in establishing his/her eligibility.
- .326 Claims submitted after the date listed in .313 above shall be denied.
- .327 Claims submitted after the filing date which have been date stamped by another county in accordance with .322 above shall be deemed submitted on the earliest date so stamped on the claim. These claims resubmitted by the claimant to the appropriate CWD must also meet the following conditions:
- (a) The earliest date stamp appearing on the claim form must be prior to the final filing date, and
- (b) The claim must have been resubmitted by the claimant within 15 days after the date of the most recent NOA specified in .323(b) above, and
- (c) The claim is resubmitted with that NOA attached
- .328 The county shall determine eligibility and issue retroactive aid to eligible individuals or deny the claim in accordance with .314 and .325 above, and .4 and .5 below, as appropriate, within 60 calendar days of receipt of: 1) the claim form if additional information was not requested, 2) the additional information and/or documentation requested in accordance with .324(b) above, or 3) the completed supplemental claim form requested in accordance with .324(a) above. The CWD shall send the appropriate NOA.
- .329 The county shall submit to SDSS a statistical report on or before October 1, 1986. The report shall be submitted on a form provided by SDSS and shall contain:
- (a) The number of Lowry claims received;
- (b) The number of Lowry claims denied in total;
- (c) The number of Lowry claims granted in full or in part;
- (d) The total dollars paid to Lowry claimants.

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.4 Determination of Potential Eligibility for Retroactive Payment(s)

- .41 Persons potentially eligible for retroactive benefits are those persons who met all of the following eligibility conditions during any month or months between February 1, 1977 and August 31, 1982 except as noted below:
- .411 Persons who were applicants for or recipients of AFDC, (including those who would have been recipients if Lowry child care costs had been allowed).
 - .412 Were concurrently employed; and
 - .413 Had children living at home while being employed; and
 - .414 Incurred costs by paying a nonworking person in their home but not in the assistance unit for child care during working hours; and
 - .415 Reported the child care costs in .414 above on a CA 2 or a CA 7 for at least one month but had those costs disallowed as a deduction from their earnings in the determination of need or the amount of the AFDC grant because the child care payments were made to nonworking persons who lived in the same household.
 - .416 *In a two-parent household, the claimant may have been incapacitated while the other parent was employed.*
- .42 Verification of the eligibility factors contained in .41 is required for all claimants (see .421, and .424 through .427 below). If verification is not provided, the CWD shall act in accordance with .428 below.
- .421 Verification of receipt of AFDC or denial of, or discontinuance from AFDC due to excess earnings includes the following:
- (a) Proof of receipt or denial of, or discontinuance from AFDC for persons claiming retroactive benefits shall be obtained from the case record if it is available.
 - (b) If the case record is unavailable, sources of verification which the claimant may provide include, but are not limited to:
 - (1) A copy of a Notice of Intended Action (NOA) or a state hearing decision indicating that a claimant was an AFDC recipient during the aid months.
 - (2) Copies of any other documents indicating the claimant's welfare status during the aid month.
- .422 If the assistance unit received the Maximum Aid Payment (MAP) in the aid month, individuals in that assistance unit are ineligible for retroactive benefits.

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.423 MAP levels from February 1, 1977 through August 31, 1982.

TIME PERIOD

<u>2/01/77</u> to <u>6/30/77</u>	<u>7/01/77</u> to <u>6/30/79</u>	<u>7/01/79</u> to <u>6/30/80</u>	<u>7/01/80</u> to <u>12/31/80</u>	<u>1/01/81</u> to <u>6/30/81</u>	<u>7/01/81</u> to <u>8/31/82</u>
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AFDC MAXIMUM AID PAYMENTS (MAP) LEVELS

1 Person	166	175	201	232	277	248
2 Persons	273	287	331	382	374	408
3 Persons	338	356	410	473	463	506
4 Persons	402	423	487	563	550	601
5 Persons	459	483	556	642	628	686
6 Persons	516	543	625	722	706	771
7 Persons	566	596	686	792	775	846
8 Persons	616	649	747	862	844	922
9 Persons	666	701	807	932	912	996
10 Persons	716	754	868	1002	981	1071

.424 Verification supporting that the claimant's child(ren) lived with him/her, includes the following:

- (a) Proof of the child(ren)'s residence for persons claiming retroactive benefits shall be obtained from the case record if it is available.
- (b) If the case record information is unavailable, sources of verification which the claimant may provide include, but are not limited to:
 - (1) A copy of school attendance record for the claimant's child(ren) indicating the school they attended.
 - (2) A signed statement from a neighbor attesting that the claimant's child(ren) resided with the claimant.

.425 Verification supporting the claimant's employment in the claim month includes the following:

- (a) Proof of employment for persons claiming retroactive benefits shall be obtained from the case record information if it is available.
- (b) If the case record information is unavailable, sources of verification that the claimant may provide include, but are not limited to:
 - (1) Wage stubs.
 - (2) A signed statement from the employer, verifying the claimant's employment or a copy of the employer's personnel records which would verify the claimant's employment in the aid month.
 - (3) Copies of tax returns or W-2 forms.

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- .426 Verification supporting that the claimant incurred child care costs in the claim month by paying a nonworking person in the household but not in the assistance unit, includes the following:
- (a) Proof of child care expense for persons claiming retroactive benefits may be obtained from the case record information if it is available.
 - (b) If such proof is not available in the case record or the case record information itself is not available, sources of verification that the claimant may provide include, but are not limited to:
 - (1) Cancelled checks or money order receipt.
 - (2) Signed receipts.
 - (3) Sworn statements from the care provider attesting that he/she did provide child care to the recipient, how much he/she was paid by the claimant and when such payment was received.
 - (4) Sworn statement from persons other than the claimant with a reasonable knowledge that services were provided by a person in the household and the claimant paid that person.
 - (c) The child care costs as verified in (a) or (b) above must be reasonable. For the claim period from December 1, 1981 through August 31, 1982, the maximum child care costs allowed per child per month is \$160 if the claimant was employed at least 100 hours and worked at least 13 days. See MPP Section 44-113.215.
- .427 Verification supporting that the child care costs as verified in .426 above have been reported by the claimant on a CA 2 or a CA 7 for at least one month but disallowed by the CWD, because the child care provider to whom the child care payments were made lived in the same household, includes the following:
- (a) Proof of reporting of the child care costs on a CA 2 or a CA 7 and the subsequent disallowance of such costs for persons claiming retroactive benefits shall be obtained from the case record information if it is available.
 - (b) If the case record information is unavailable, verification which the claimant may provide includes, but is not limited to, the NOA sent the claimant.

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.428 If the information in the case record is incomplete and/or the claimant cannot provide the verification specified in .421 and .424 through .427, the claimant must provide statement(s) that fully answer the questions contained on the claim form. If good reason exists for the inability of the claimant to obtain verification as specified in .428(a), the claimant's sworn statement as provided on the claim form and/or Supplemental Claim Form shall be accepted.

(a) Good reasons for the inability of the claimant to obtain verification include, but are not limited to:

- (1) The destruction or loss of records.
- (2) Inability on the part of the claimant to locate the third party who could supply the verification.
- (3) The refusal or inability on the part of the third party to supply the verification or provide a sworn statement.
- (4) Other circumstances beyond the control of the claimant.

(b) The CWD is not precluded from making further inquiries or making any third-party contacts it determines to be necessary. A consent form shall be used for this purpose in accordance with MPP Section 40-157.22.

.429 If verification necessary to establish the claimant's eligibility is not provided and the CWD determines good reason(s) does not exist for the inability of the claimant to obtain verification, the claim shall be denied.

The CWD shall send the appropriate NOA. An example of the absence of good cause is the claimant's assertion that he/she cannot remember where he/she was employed or which school his/her child(ren) attended.

.5 Determination of the Amount of Retroactive Payment

.51 The amount of retroactive payment shall be computed on a month-by-month basis.

.52 For those claimants whose case records are not available, the retroactive payment shall be the reasonable cost of the child care claimed, if the eligibility conditions specified in .41 above are met. For any month the retroactive payment shall not exceed the MAP for the family.

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.53 For those claimants whose case records are available, the retroactive payment shall be:

.531 For cases which were denied AFDC due to excess net income: the grant amount that the individual would have been entitled to in the month of denial had the reasonable cost of child care been allowed. For the claim months following the month of denial, see .52 above.

.532 For cases of which grants were computed in accordance with MPP Chapter 44-113:

(a) For each month claimed for the period from February 1977 through November 1981, the amount of retroactive payment shall be the reasonable cost of child care as determined in .426(c) above or the amount of net nonexempt income used to determine the original grant for that month, whichever is less, except for zero base grant (ZBG) cases. For ZBG cases the amount of retroactive payment shall be the reasonable cost of child care as determined in .426(c) above, minus the amount of the difference between the net nonexempt income and MAP.

(b) For each month claimed for the period from December 1981 through August 1982:

(1) Calculate net nonexempt income for the income received by the assistance unit in accordance with MPP Chapter 44-100 by allowing the reasonable cost of child care as determined in .426 above. The \$30 and one-third disregard shall only be given for the appropriate number of months in accordance with MPP Section 44-111.23).

(2) Subtract the net nonexempt income determined in (1) above from the MAP for the Assistance Unit. The remainder is the grant amount that the assistance unit should have received.

(3) Subtract the original grant amount in the claim month from the grant amount determined in (2) above. The difference is the amount of the retroactive payment for that month.

(c) For cases in which an overpayment due to income was assessed: the difference between the overpayment amount collected and the overpayment amount determined using actual work-related costs.

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.54 Delivery of Retroactive Payment

- .541 The retroactive payment determined in .53 above shall be used to offset any collectible outstanding overpayment (see MPP Section 44-351.1). Any amount in excess of the overpayment shall be paid to the claimant.
- .542 Although the amount of retroactive payment must be determined on a monthly basis, the CWD may consolidate payments covering more than one month as long as the time requirements in Section 50-013.328 are met.
- .543 The retroactive payment received by a recipient shall not be considered income or property in the month of receipt nor in the next following month.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 50-014:

50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS

.1 Background

.11 North Coast Coalition v. Woods

On November 29, 1979, the Mendocino County Superior Court issued a Preliminary Injunction enjoining the Department from enforcing EAS Sections 44-113.5 and 44-133.7 insofar as the portion from the required Unrelated Adult Male's (UAM's) contribution which is for the UAM's own living expenses and any contribution made by the UAM, whether cash or in-kind, for a partial item of need which was specifically designated by the UAM to be for his own living expenses was considered under those regulations to be income available to the AFDC Assistance Unit (AU). This injunction was stayed while the Department's appeal was pending.

On May 5, 1980, the Court of Appeal of the State of California, First Appellate District, ordered that the injunction be given effect during the remainder of the appeal process. On October 1, 1980, the Court of Appeal affirmed the Order granting the preliminary injunction. The Department implemented the preliminary injunction on October 1, 1980 on a prospective basis. Under the final judgment entered into on November 7, 1984, the terms of the preliminary injunction are to be applied to the period August 1976 through September 1980.

On November 7, 1984, the Mendocino County Superior Court issued a stipulation of settlement and approval of agreement accepting the terms of the Settlement Agreement entered into by parties to this action.

.12 Wood v. Woods

On January 25, 1980, the San Mateo County Superior Court issued a Temporary Restraining Order prohibiting the Department from implementing regulations amending MPP Sections 43-105.5, 44-115, 44-133 and 44-106 filed on an emergency basis effective January 1, 1980 providing that the spouse's community property interest in the income of a nonadoptive stepparent was to be considered unconditionally available to the spouse for the support of the stepchild(ren) living in the home. On February 26, 1980, the Superior Court ruled in favor of the Department by denying the plaintiffs' application for a preliminary injunction and vacating and dissolving the temporary restraining order. The plaintiffs appealed this ruling.

On July 19, 1982, the Court of Appeal of the State of California, First Appellate District, reversed the ruling of the Superior Court. The Court of Appeal ruled that Civil Code Section 5127.6, which was the basis for the amendment to MPP 43-105.5, did not create a duty on the part of the stepparent to support nonadopted children. Therefore, the regulations implemented effective January 1, 1980 were invalid.

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The Omnibus Budget Reconciliation Act of 1981 mandated the inclusion of stepparent income in determining eligibility for AFDC benefits, regardless of whether or not a state law mandates support for nonadopted children. This rendered the issue presented in the Wood case moot on a prospective basis.

The Court of Appeal, however, ruled on September 30, 1982 that plaintiff's were entitled to retroactive benefits from January 1, 1980 through October 1, 1981.

On March 1, 1985, the San Mateo County Superior Court issued a final judgment which incorporated the September 30, 1982 decision of the Court of Appeal and the terms of the Settlement Agreement entered into by the parties to this action.

.13 Wright v. Woods

As a result of the decision in Garcia v. Swoon (1976) 63 Cal. App. 3d 903, cert. den., 436 U.S. 930, the Department implemented regulations (MPP Section 44-316) on August 1, 1979 providing for supplemental AFDC payments to recipients who suffered a loss or decrease of income in the payment month. The regulations required that supplemental payments be issued to AFDC recipients who requested them in the month in which their AFDC payment together with their total income, was less than 80 percent of the Maximum Aid Payment (MAP).

In Garcia v. Woods (1980) 103 Cal. App. 3d 702, the Court of Appeal held that supplemental payments must be made in an amount so that the AFDC payment, together with total income, equals the full amount of the MAP. However, because plaintiffs in Garcia sought only injunctive and declaratory relief, retroactive benefits were not awarded. A change in state law removed the full supplemental payment requirement on a prospective basis.

On May 28, 1981, the Court of Appeal of the State of California, First Appellate District, in the case of Wright v. Woods, (1 Civil 40555), which had raised the same legal issues as Garcia, ruled that class members were entitled to file claims for underpayments as a result of not receiving a full supplemental payment.

Pursuant to the Court of Appeal decision in Wright, the Department is required to issue retroactive supplemental payments to all claimants who would have been eligible for a supplemental payment from July 18, 1976 through December 31, 1980 for any month in which the claimant's AFDC payment together with total income was less than 100 percent of MAP.

On March 1, 1985, the San Mateo County Superior Court issued a final judgment which incorporated the May 28, 1981 decision of the Court of Appeal and the terms of the Settlement Agreement entered into by the parties to this action.

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.14 Angus v. Woods

On August 25, 1980, the United State District Court for the Northern District of California issued a preliminary injunction requiring the Department to cease all collection of willfully caused overpayments of AFDC from current grants. The court ruled that the Department's regulations (MPP Section 44-353) were invalid in that they did not provide a process for consideration of the individual facts of each recipient family's financial circumstances in determining undue hardship in connection with an AFDC grant adjustment, consistent with federal regulations.

On May 1, 1981, the Department adopted MPP Section 44-353.241(b) delineating a method of willful overpayment recoupment by grant adjustment which complied with the Preliminary Injunction.

The Omnibus Budget Reconciliation Act of 1981, changed the method of overpayment recoupment. As a result of the changes in federal law, the regulations implementing the preliminary injunction were repealed on April 2, 1982 and the issue presented in the Angus case is moot on a prospective basis.

On November 22, 1982, the United States District Court for the Northern District of California granted plaintiff's motion for summary judgment. The order established the retroactive period from August 31, 1977 through the date the Department fully implemented the preliminary injunction on January 1, 1981. For the period from January 1, 1981 until the Department adopted regulations on May 1, 1981, the County Welfare Departments were instructed to cease all recoupment of willfully caused overpayment by grant adjustment. Therefore, the retroactive period ordered by the District Court is from September 1, 1977 through December 31, 1980.

On July 12, 1985, the United States District Court issued a final judgment which incorporated its November 22, 1982 order modified by the terms of the Settlement Agreement entered into by the parties to this action.

.15 Settlement Agreement

On January 25, 1984, plaintiffs' counsel proposed a settlement which set forth the manner of notice and distribution of retroactive benefits to class members of all four cases. The Department entered into negotiations with plaintiffs' counsel to arrive at a mutually acceptable agreement.

On October 18, 1984 the Settlement Agreement was entered into by plaintiffs' counsel and the Department. Under the terms of paragraph B(9) of this Agreement, the Department is required to implement its provisions on July 1, 1985.

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However, because not all of the courts having jurisdiction over the individual cases approved the provisions of the Agreement by March 1, 1985 (as required by Section O "Approval of Agreement") the time frames for implementing this Agreement were delayed until all approvals were obtained. The final approval was obtained on July 12, 1985. This caused the balance of the time frames to be continued from this date. As a result, the Department is required to implement the provisions of this Agreement within 122 days from the date the final approval was obtained. (The 122-day period represents the number of days between March 1, 1985 and July 1, 1985.) Therefore, the provisions of this Agreement must be implemented no later than November 11, 1985. In order that the provisions of this agreement commence on the first day of the month, as it would have been had all courts approved the agreement prior to March 1, 1985, the Department concluded that the earliest it could be implemented was November 1, 1985. This date was selected because of the time needed to file these regulations and complete the printing of necessary forms.

The Settlement requires that retroactive benefits to eligible claimants be: (1) calculated through the use of existing case file information (actual benefits); or (2) in the event the case file information is missing or incomplete (preventing the calculation of actual benefits) issued through the use of an average monthly benefit amount specified for each individual case. In addition to requiring retroactive payments, the settlement requires that prejudgment interest be paid on retroactive payments. The amount of the interest is to be computed based on a percentage of the retroactive benefit awarded for a calendar year within the specified retroactive period.

The following provisions describe the procedure by which retroactive benefits will be claimed and eligibility for payment determined.

.2 Informing potentially eligible persons of the availability of retroactive benefits.

.21 In order to notify the classes of potentially eligible persons, the State Department of Social Services (SDSS) shall:

.211 Send by first class mail a notice printed in both English and Spanish together with an individual claim form for each case (Angus v. Woods, TEMP 1620; North Coast Coalition v. Woods, TEMP 1621; Wood v. Woods, TEMP 1622; and Wright v. Woods, TEMP 1623) printed both in English and Spanish along with a listing of addresses for Legal Aid Offices and CWD Offices on November 1, 1985 to prescribed former Medi-Cal recipients who received such benefits any time between July 1981 and December 1982 and to all current AFDC recipients.

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- .212 Conduct an advertising and public relations campaign beginning on November 1, 1985.
- .213 Issue posters printed in both English and Spanish informing the general public of the availability of benefits. The posters shall contain the same language as contained on the mailed notice.
 - (a) These posters shall be provided to the Employment Development Department, Social Security Administration and CWDs for posting in offices throughout the State of California from November 1, 1985 through February 28, 1986. Additional posters will be available for posting in all legal services offices in the state.
- .214 Provide a toll free telephone number so Spanish speaking potential claimants may call the Department to obtain the Spanish version of the claim forms specified in .211 above.
 - (a) The toll free telephone number shall be listed only on the Spanish version of the poster.
- .215 Print sufficient copies of the Notice and claim forms specified in .211 for mailing to all AFDC recipients.
- .216 Provide CWDs camera-ready copies of the English and Spanish Notice and the English and Spanish claim forms specified in .211.
- .217 Provide a certification to plaintiff's counsel as to the date on which the notice and claim forms were mailed to current AFDC recipients and any problems encountered in the mailing which may affect the number of claims received.
- .22 In order to notify the classes of potentially eligible persons, the county welfare department (CWD) shall:
 - .221 Be responsible for the mailing by first class mail on November 1, 1985 to all current AFDC recipients, the SDSS supplied notice, printed in both English and Spanish, together with an individual claim form for each case (Angus v. Woods, TEMP 1620; North Coast Coalition v. Woods, TEMP 1621; Wood v. Woods, TEMP 1622; and Wright v. Woods, TEMP 1623), printed in both English and Spanish along with a listing of addresses for legal aid offices and CWD offices.
 - .222 Post English and Spanish informing posters supplied by SDSS in a conspicuous location in all CWD offices from November 1, 1985 through February 28, 1986.
 - .223 Forward a supply of the English and Spanish informing posters supplied by SDSS to all Food Stamp issuance outlets within the county with a request that the posters be displayed in conspicuous locations from November 1, 1985 through February 28, 1986.
 - .224 Reproduce a supply of the English and Spanish claim forms specified in .221 sufficient to provide them to anyone upon request.
 - .225 Give or mail the notice and either the English or Spanish claim forms, whichever is appropriate, to a claimant upon request.

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.3 Application for Retroactive Benefits

.31 Claimant Responsibilities

- .311 The claimant shall complete the appropriate claim form for each court case in which he/she is requesting retroactive benefits.
- .312 The claimant shall sign the claim form(s) under penalty of perjury.
- .313 The claimant shall return the claim form(s) to the CWD in the county from which he/she received or was denied/discontinued AFDC cash aid during the month(s) he/she is claiming retroactive benefits.
- (a) A separate claim form(s) shall be completed and returned to each county in which the claimant wishes to claim retroactive benefits.
- .314 The claim form(s) shall be submitted to the CWD by March 21, 1986. Claims submitted after this date shall be denied, except as provided in .314(b) or .315(b) below.
- (a) Unless the evidence indicates otherwise, the date the claim form is submitted shall be determined as follows:
- (1) The postmark date of the envelope, when the claim is mailed to the CWD; or
 - (2) The date stamped on the claim form by the CWD, when the claim is delivered in person to the CWD; or
 - (3) The date the claim form was signed by the claimant, when the date cannot be determined by either (1) or (2) above.
- (b) Claim forms initially submitted to a legal aid office on or before the close of the claim period specified above shall be accepted by the CWD, provided that those claim forms are sent or delivered to the CWD on or before March 31, 1986. Any claims which are postmarked or delivered from a legal aid office to the CWD after March 31, 1986 shall be denied.
- .315 The claimant shall be permitted to resubmit a previously denied claim or portion thereof or reapply if the date of resubmittal is:
- (a) On or before the close of the claim period specified in .314 above, or
 - (b) On or before April 21, 1986 or 30 days from the date of the denial, whichever is later, when the claim was denied in accordance with .422 below and the claimant resubmits the claim form to the correct CWD. In the event the correct CWD is determined as a result of a fair hearing, the claimant may resubmit the claim form(s) within 30 days of the hearing decision.

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.32 CWD Responsibilities

- .321 The CWD shall stamp each claim form with the date the form was received and shall retain all envelopes that were postmarked after March 21, 1986.
- .322 Claims submitted after the date specified in .314 above shall be denied except as provided in .314(b) or .315(b) above.
- .323 The CWD shall determine eligibility and issue retroactive benefits to eligible claimants or deny the claim, as appropriate, within 120 calendar days of receipt of the claim form except as provided in (b) and (c) below.
- (a) Within this same 120-day period, the CWD shall issue a Notice of Action (NOA) explaining to the claimant:
- (1) The disposition of the claim;
 - (2) The computation of retroactive benefits; and
 - (3) The right to request a state hearing.
- (b) The CWD may exceed the 120-day period in situations where completion of the determination of eligibility is delayed because of circumstances beyond the control of the CWD. In these instances, the case record must document the cause for delay.
- (c) Inability of the CWD to complete the determination of eligibility within the 120-day period shall not be a basis for denying the claim unless the delay is caused by the refusal of the claimant to participate in the gathering of the needed information, clarification or verification. (See Section 50-014.438.)
- .324 The CWD shall submit certification to SDSS on or before December 31, 1985. The certification shall be submitted on the form (TEMP 1642) provided by SDSS and shall contain any problems encountered in the process of receiving claims which may have affected the actions taken on those claims.

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.325 The CWD shall submit to SDSS a statistical report for each court case on or before May 30, 1986. The CMD shall submit to SDSS a final statistical report by September 30, 1986 for each court case in which the initial report showed claims pending a decision as of May 1, 1986. The reports shall be submitted on the forms (TEMP 1635, 1635A, 1635B, and 1635C) provided by SDSS and shall contain:

(a) The following statistics broken out by each court case and by the first year for which the claimant requested retroactive benefits:

- (1) Number of claims received;
- (2) Number of claims denied in full;
- (3) Number of claims granted in full using case record information; and
- (4) Number of claims granted in full using the average monthly benefit table.

(b) The following statistics by each court case:

- (1) Number of claims in which missing information, clarification, or verification was needed;
- (2) Number of claims granted in part and denied in part;
- (3) Number of claims which had payments from other retroactive court cases used in the benefit computation;
- (4) Number of claims in which outstanding collectable overpayments were recouped;
- (5) Number of claims pending a decision as of May 1, 1986;
- (6) Total amount of benefits paid out using case record information, including interest;
- (7) Total amount of benefits paid out using the average monthly benefit table, including interest;
- (8) Total amount of other retroactive payments used in the benefit computation; and
- (9) Total amount of outstanding collectable overpayments recouped.

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(c) The following statistics by each court case, and by claims granted in full or in part and by claims denied:

(1) Number of claimants who were former recipients of AFDC that learned of the availability of retroactive benefits through:

- (A) The mailing;
- (B) The Advertising/Public Relations Campaign;
- (C) The poster;
- (D) Other; and
- (E) Did not indicate

.4 Claim(s) Processing

.41 Review of Class Membership Questions

Upon receipt of the claim form(s), the CWD shall review the responses to the class membership qualifying questions. The class membership questions are in the shaded boxes on the front page of each claim form. In order for the claimant to be potentially eligible for retroactive benefits under the case, the claimant must answer "yes" to all the class membership questions on the appropriate claim form except on the Angus v. Woods claim form. On the Angus v. Woods claim form, the first three (3) questions must be answered "yes" and either the fourth or fifth question must be answered "yes".

.411 If the claimant fails to provide a response to one or all of the questions necessary to certify class membership, the CWD shall return the claim form to the claimant for completion in accordance with .433 below.

.412 If the claimant's answers to the class membership question(s) on the front page of the specific claim form indicate that the claimant is not in the class, the CWD shall deny the claim with a NOA informing the claimant of his/her right to a state hearing.

.413 Verification of receipt, denial, or discontinuance of AFDC shall not be required.

.42 Wrong County Received Claim Form

If a CWD receives a claim for any period in which, the CWD can determine from the claim form that the form has been submitted to the wrong county, the CWD shall either:

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.421 Forward the claim form or a copy thereof to the correct CWD with a copy of the NOA sent to the claimant indicating the month claimed to be processed by the second CWD, when the correct CWD can be determined from the information on the claim form. In addition, the CWD shall inform the claimant on an NOA that, for the period in question, his/her claim has been forwarded to the correct CWD for processing.

(a) The date the claim form was submitted to the first CWD, as determined in .314 above, shall be used by the second CWD.

-or-

.422 Deny that period claimed in which the correct CWD cannot be determined from the information on the claim form. The CWD shall return the claim form or a copy thereof together with the NOA informing the claimant of:

(a) The month(s) being denied;

(b) The right to a state hearing;

(c) The ability to resubmit the claim for the month(s) in question to the correct CWD within the time limits specified in .315 above; and

(d) The need to attach a copy of the NOA when resubmitting the claim form to the correct CWD.

.43 Review of Information Contained on the Claim Form(s)

.431 The CWD shall review each claim form to determine if the claimant has provided the information needed in order to locate the appropriate case record information. For the purpose of this determination, a claim form shall be considered complete when all the following requirements are met:

(a) The qualifying class membership questions contained on the front page of each claim form are answered; and

(b) The claimant has provided his/her name, current address, social security number, date of birth, telephone number, county in which he/she received AFDC, and current recipient status (failure to provide his/her old address, AFDC case number or the month/year in which AFDC was denied/discontinued would not render the form incomplete); and

(c) The claimant has indicated which month(s)/year(s) retroactive benefits are being claimed; and

(d) The claimant for North Coast Coalition v. Woods or Wood v. Woods retroactive benefits, provides either a "yes" or "no" response to the question regarding the denial/discontinuance of AFDC for any of the month(s)/year(s) claimed.

(e) The claimant for Angus v. Woods retroactive benefits provides a response to the question regarding the presence of his/her spouse in the home during the month(s)/year(s) being claimed.

(f) The claim form has been signed under penalty of perjury the lack of the spouse/other parent's signature would not render the form incomplete.

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- .432 The CWD shall review the information contained on all claim forms and request clarification if the information is internally inconsistent. At a minimum, the CWD shall request clarification when any of the following conditions exists:
- (a) The claimant files a claim for retroactive benefits for both North Coast Coalition v. Woods (UAMs) and Wood v. Woods (stepparents) during the same claim month; or
 - (b) The claimant's old address provided on the claim form does not correspond to the county in which the claimant indicated he/she received AFDC; or
 - (c) The claimant indicates that his/her AFDC was stopped prior to the month(s)/year(s) for which retroactive benefits are being claimed in either Angus v. Woods or Wright v. Woods; or
 - (d) The claimant indicates that his/her AFDC was stopped on a certain date on the front page of the North Coast Coalition v. Woods (TEMP 1621) or Wood v. Woods (TEMP 1622) claim form, but indicates a different date on the back page of the claim form in the section regarding the information about the AU during the period claimed when the AU was denied/discontinued.
- .433 In order to obtain the required information specified in .431 above, .543, and .643 below; the needed clarification specified in .432(a) through (d) above, .543, .643, and .732 below or the necessary verification specified in .544, or .644 below, the CWD shall send the claimant a notice which specifies the missing information, requested clarification or verification needed. A copy of the claim form(s) shall be attached to the notice. The claimant shall have 30 days from the date of the notice to respond to the request. Information shall be gathered in accordance with MPP Section 40-157.
- .434 The notice specified in .433 above shall inform the claimant of his/her ability to request a "good cause" extension to the 30-day deadline. If verification is requested, the notice shall also inform the claimant that if he/she is unable to provide the requested verification, a declaration signed under penalty of perjury by the claimant affirming the information is acceptable in lieu of the verification.

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- .435 The CWD shall grant a "good cause" extension for up to 30 days beyond the deadline contained on the notice when:
- (a) The claimant indicates to the CWD, either verbally or in writing of his/her need for additional time to comply with the request; and
 - (b) The claimant is cooperating in obtaining the requested information, clarification or verification; and
 - (c) The claimant makes the "good cause" request prior to the expiration of the deadline, unless the CWD finds that the claimant was prevented from making such request because of circumstances beyond his/her control. In the situation where circumstances were beyond the claimant's control, the request after the deadline shall be accepted.
- .436 The CWD shall note on the claim form the date, disposition of the "good cause" request, and the new deadline when an extension has been granted.
- .437 Upon receipt of the requested information, clarification or the verification within the original or extended deadline(s), the CWD shall proceed with the processing of the claim(s) or the determination of potential eligibility for retroactive benefits under the provisions specified below for the court case(s) claimed.
- .438 Failure on the part of the claimant to respond without good cause as specified in .435 above within the original or extended deadline(s), shall result in the denial of that portion of the period claimed for which the information, clarification, or verification was requested. For any remaining portion of the period claimed, the CWD shall proceed with the processing of the claim(s).
- .44 Establishing Claimant's Connection to AFDC
- When the CWD has received a complete and internally consistent form and the form indicates that claimant learned of the case by the mailer, the CWD shall proceed with the determination of potential eligibility for retroactive benefits under the section for the appropriate court case.
- .441 When the claim form either shows that the claimant learned of the case other than by the mailer or does not indicate how the claimant learned of the case, the CWD shall review all existing records and shall deny the claim if no record can be found that the claimant applied for or received AFDC. This provision applies only when the CWD can certify that a listing of AFDC cases (such as the AFDC payroll or warrant register) was retained in addition to AFDC case records for the month(s)/year(s) claimed. In addition, this provision can be applied to claimants who were denied AFDC only when the CWD can certify that existing AFDC case records include all denials. The NOA denying the claim shall inform the claimant of the right to a state hearing.

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.45 Order of Claims Processing

For claimants who are requesting retroactive benefits under more than one court case, the CWD shall determine the potential eligibility for retroactive benefits in the following order:

.451 North Coast Coalition v. Woods (see Section 50-014.5);

.452 Wood v. Woods (see Section 50-014.6);

.453 Wright v. Woods (see Section 50-014.7);

.454 Angus v. Woods (see Section 50-014.8).

.46 Review of Period Claimed - Defined

For the purposes of the case record review process specified in Sections .53, .63, .72 and .82 below, the CWD shall expand those months actually claimed to include three payment months immediately preceding and following each month claimed, so long as the expanded claim period falls within the periods of retroactivity specified in Sections .51, .61, .71 and .81 below.

.461 The purpose of this review is to determine a claimant's potential eligibility for actual retroactive benefits during these expanded review months.

(a) In the event that there is no case record information or the case record information is insufficient to compute actual retroactive benefits in accordance with Sections .536, .636, .725 or .827 below for the expanded review months, the claimant is not entitled to average retroactive benefits for the expanded claim period.

(b) In the event that the claimant is ineligible for retroactive benefits, based on the case record information, during the expanded review months, no further action is required on the part of the CWD.

(c) In the event that the claimant is eligible for retroactive benefits and the amount can be calculated in accordance with Sections .536, .636, .725 or .827 below, the CWD shall compute the actual retroactive benefits for the expanded review months.

(1) The CWD shall include the expanded review months showing the computation of benefits on the appropriate computation page(s) of the claimant's NOA approving back aid.

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.5 Determination of Eligibility for Retroactive Benefits Under the North Coast Coalition v. Woods Court Order

.51 Class Membership

.511 Claimants potentially eligible to receive retroactive benefits are persons who:

- (a) Had a Unrelated Adult Male (UAM) living in the home; and
- (b) Had their AFDC cash aid reduced, denied, or discontinued for any period from August 1, 1976 through September 30, 1980 because of the application of MPP Sections 44-113.5 and 44-133.7 which deemed as income to the Assistance Unit (AU) a portion of the UAM's required contribution for his own living expenses.

.512 For those claimants who were denied/discontinued AFDC, the claimant must have been denied/discontinued, for any month claimed, solely because the AU was found financially ineligible because the amount of income deemed to the AU from the UAM, when added to other net nonexempt income of the AU, exceeded the Minimum Basic Standard of Adequate Care (MBSAC) for the size of the AU. See Appendix B to MPP Section 50-014 for MBSAC levels.

.52 Confirming Class Membership

The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.53 Case Record Review

.531 For each month being claimed (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms the presence of a UAM in the home; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .536 below.

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.532 The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents may be needed.

- (a) The UAM Contribution Statement;
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheets;
- (e) Any NOA changing the amount of the grant because of the deeming of income to the AU from the UAM; and
- (f) Any pertinent case narrative.

.533 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.534 The CWD shall compute the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits), when for that claim month(s):

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim form that she received AFDC and either;
 - (1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or
 - (2) The CWD located the claimant's case record, but it did not contain sufficient information to calculate the retroactive benefit as specified in .536 below.

.535 The CWD shall determine the claimant's potential eligibility for and the amount of retroactive benefits for any month claimed in accordance with .54 below, when:

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim form that he/she was denied/discontinued and either;
 - (1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or
 - (2) The CWD located the claimant's case record and it indicates that the claimant was denied/discontinued from AFDC.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.536 Calculation of Actual Retroactive Benefits

When the case record contains sufficient information to calculate the amount of the retroactive benefits, the CWD shall determine the amount of the retroactive benefits as follows:

- (a) Determine the potential entitlement by subtracting from the Maximum Aid Payment (MAP) level for the AU:
 - (1) All net nonexempt income from the budget month other than that deemed from the UAM:
 - (2) Other adjustments to the grant not associated with the deeming of income from the UAM (e.g., overpayment recoupments); and
 - (3) Any income from the UAM which was actually available to the AU in accordance with current MPP Section 44-113.5, as indicated by the case record.
- (b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:
 - (1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and
 - (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose.).
- (c) Determine the net entitlement by subtracting the amount determined in (b) above from the amount of potential entitlement determined in (a) above.
- (d) Determine the amount of the potential retroactive benefit by adding to the net entitlement determined in (c) above any amount of overpayment, for the claim month which was recouped in a later month when the overpayment was caused by the deeming of UAM income to the AU, unless the claim includes the month in which the overpayment was recouped. The amount recouped includes recovery by grant adjustment or other means (i.e., demand letter, voluntary repayment, etc.) attributable to the month claimed.
- (e) The amount of the payable retroactive benefit is the amount determined in (d) above when the amount is a positive number.
 - (1) The CWD shall deny the month claimed when the amount determined in (d) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the month claimed.

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- (f) Determine the amount of the total retroactive benefits by calendar year, computed using case record information, by adding together the amount(s) determined in (e) above for each eligible month claimed in that calendar year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for July 1977. The case record:

- (1) Confirms the presence of the UAM in the home;
- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$40 in net nonexempt income from other than the UAM;
- (4) Shows a recoupment of a nonwillful overpayment of \$50 (not associated with the UAM);
- (5) Shows there was no actual income to the AU from the UAM;
- (6) Shows that the grant originally issued was \$266; and
- (7) Shows there was a willful overpayment associated with the failure to report the presence of the UAM for the month claimed which was recouped in December 1977 in the amount of \$109 (allowing \$297 to the AU to meet the MBSAC level for the children in the AU by adding to the grant of \$117 the amount of available resources of \$50 in disregards and \$130 in net nonexempt income.)

The amount of the payable retroactive benefits is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	Nonwillful overpayment adjusted in 7/77
- 0	Actual income from UAM
<u>\$ 266</u>	Potential entitlement per .536(a)
 \$ 266	 AFDC grant issued (.536(b))
- 0	Net entitlement per .536(c)
<u>+ 109</u>	Amount of overpayment recouped because of nonreporting of UAM
\$ 109	Potential retroactive benefit per .536(d), also the payable retroactive benefit per .536(e)

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

Example 2:

Same case situation as in Example 1 except: The grant originally issued was \$176 (in addition to the deductions in Example 1, \$90 was computed from MPP Section 44-113.5 (UAM contribution) and deducted from MAP) and there was no overpayment caused by the presence of the UAM. However, the case record confirms that \$40 of the \$90 was actually made available to the AU by the UAM.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	Nonwillful overpayment adjusted in 7/77
- 40	Actual income from UAM
<u>\$ 226</u>	Potential entitlement per .536(a)
- 176	AFDC grant issued (.536(b))
<u>50</u>	Net entitlement per .536(c)
+ 0	Amount of overpayment recouped because of nonreporting of UAM
\$ 50	Potential retroactive benefit per .536(d), also the payable retroactive benefit per .536(e)

Example 3:

Same case situation as in Example 1 except: there was \$80 in available income to the AU from the UAM, the grant issued was \$206 (in addition to the \$176 originally issued the claimant received \$30 in Green v. Obledo retroactive benefits for the month claimed) and there was no overpayment caused by the presence of the UAM.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income
- 50	No willful overpayment adjusted in 7/77
- 80	Actual income from the UAM
<u>\$ 186</u>	Potential entitlement per .536(a)
	\$ 176 AFDC grant originally
	30 issued <u>Green v. Obledo</u>
	retroactive benefit
	<u>\$ 206</u> AFDC grant issued (.536(b))
- 206	
<u>\$ <20></u>	Net entitlement per .536(c)
+ 0	Amount of overpayment recouped because of the presence of the UAM
\$ <20>	Potential retroactive benefit per .536(d)

In this example, the claimant is not eligible for a payable retroactive benefit because the amount of AFDC issued exceeds the claimant's entitlement. The claim for this month would be denied per .536(e)(1).

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.54 Determining Eligibility for Cases Which Were Denied/Discontinued

.541 The CWD shall review the response to the AFDC eligibility questions contained on the back of the claim form, regarding the names and ages of the children living in the home and annual income of the claimant during the month(s)/year(s) being claimed when the claimant did not receive AFDC, for completeness.

(a) For the purpose of this review, the response shall be considered complete when the claimant provides:

(1) The name and the birth date of at least one child living in the home during the month(s) claimed; and

(2) An annual income amount for the year(s) in which he/she has claimed any month of retroactive benefits.

.542 The CWD shall consider the completed information specified in .541(a) above consistent with the known case record information when:

(a) The name(s) and birth date(s) of the children provided on the claim form match those contained in the case record; and

(b) The amount of the annual income of the claimant provided on the claim form (when averaged over a 12-month period) appears "reasonable" when compared to the monthly income previously reported.

(1) For this purpose, consider the annual income provided "reasonable" when, after determining an average monthly amount, the average monthly amount is approximately the same or greater than the monthly income previously reported.

.543 In order to obtain the needed information (as specified in .541(a) above) or the clarification needed to explain any inconsistency, (as specified in .542 above), the CWD shall send the claimant the notice specified in .433 above.

.544 For those month(s) claimed in which the CWD has no case record or the case record information is insufficient to confirm the information provided regarding the name(s) and date(s) of birth of the child(ren) or the annual income of the claimant, the CWD shall request on the notice specified in .433 above, the following verifications:

(a) Evidence of the child(ren)'s date(s) of birth as provided for in MPP Section 42-111.1;

(b) Evidence of the amount of annual income from a copy of either the federal or state income tax return for the year indicated; and/or

(c) A statement signed under penalty of perjury that the documentation requested is unavailable.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.545 Determination of the claimant's financial eligibility, for the month(s) claimed for which the claimant did not receive AFDC and is a member of the class, shall be as follows:

- (a) From the name(s) and date(s) of birth of the child(ren) provided, determine the number who meet the age requirement for the month(s) claimed;
- (b) Add to the number arrived at in (a) above, one (the claimant) to arrive at the AU size.
- (c) From the annual income, compute the monthly average income (annual income divided by 12).
- (d) Compare the monthly average income determined in (c) above, to 185 percent of MBSAC for the AU size determined in (b), as specified in (d)(1) below to determine if the claimant would have been financially eligible for the month(s) claimed when the claimant did not receive AFDC.

(1) 185% of MBSAC

AU Size Year	1	2	3	4	5	6	7	8	9	10
1976	311	522	635	781	901	1016	1117	1234	1351	1469
1977+78	327	549	668	821	949	1069	1177	1299	1425	1547
1979	377	633	770	945	1092	1230	1354	1495	1637	1780
1980	435	731	888	1093	1262	1421	1563	1726	1891	2055

(e) The claimant is eligible for retroactive benefits for each month claimed when the AU has at least one child meeting the age requirement in the home, and the amount of the average monthly income is less than 185 percent of MBSAC for the AU as determined in .545(d) above.

- (1) The CWD shall compute the amount of retroactive benefits for the month(s) of eligibility in accordance with .91 below (average retroactive benefits).
- (2) The CWD shall deny the month(s) of ineligibility with an NOA informing the claimant of the right to a state hearing.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.6 Determination of Eligibility for Retroactive Benefits Under the Wood v. Woods
Court Order

.61 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons who:

.611 Had a stepparent living in the home, and

.612 Had their AFDC cash aid reduced, denied, or discontinued for any period from January 1, 1980 through September 30, 1981 because of the application of MPP Sections 43-105.5, 44-115, 44-106, and 44-133 which provided that the spouse's community property interest in the income of a nonadoptive stepparent was to be considered unconditionally available to the spouse for the support of the stepchild(ren) receiving AFDC.

(a) For those claimants who were denied/discontinued AFDC, the claimant must have been denied/discontinued, for any month claimed, solely because the AU was found financially ineligible because the amount of income deemed to the AU from the community property interest in the stepparent's income, when added to other net nonexempt income of the AU, exceeded the Minimum Basis Standard of Adequate Care (MBSAC) for the size of the AU. See Appendix B to MPP Section 50-014 for MBSAC levels.

.62 Confirming Class Membership

The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.63 Case Record Review

.631 For each month being claimed (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

(a) If the claimant was receiving AFDC;

(b) If the case record information confirms the presence of a stepparent in the home who was not included in the AU and who had none of his/her own children included in the AU; and

(c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .636 below.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS,
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.632 The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents may be needed.

- (a) The Stepparent Income Statement (CA 2.2);
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;
- (e) Any NOA changing the amount of the grant because of the deeming of the spouse's community property interest in the income of the stepparent to the AU for the support of the stepparent's nonadopted child(ren); and
- (f) Any pertinent case narrative.

.633 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

.634 The CWD shall compute the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits) when, for that claim month(s):

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim that he/she received AFDC and either;
 - (1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or
 - (2) The CWD located the claimant's case record, but it did not contain sufficient information to calculate the retroactive benefit as specified in .636 below.

.635 The CWD shall determine the claimant's potential eligibility for and the amount of retroactive benefits for any month claimed in accordance with .64 below, when:

- (a) The CWD has received a complete and internally consistent claim form; and
- (b) The claimant indicated on the claim form that he/she was denied/discontinued and either;
 - (1) The CWD was unable to locate the claimant's case record and was unable to deny the claim in accordance with .441 above; or
 - (2) The CWD located the claimant's case record and it indicates that the claimant was denied/discontinued from AFDC.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.636 Calculation of Actual Retroactive Benefits

When the case record contains sufficient information to calculate the amount of the retroactive benefit, the CWD shall determine the amount of the retroactive benefit as follows:

- (a) Determine the potential entitlement by subtracting from the MAP level for the AU:
- (1) All net nonexempt income from the budget month other than that computed from MPP Section 44-133.632 in effect from January 1, 1980 until September 30, 1981 (stepparent contribution);
 - (2) Other adjustments to the grant not associated with the application of that regulation (e.g., overpayment recoupments); and
 - (3) Any cash made available to the AU by the stepparent, based on information contained in the existing case record. For purposes of this section, the amount of cash made available to the AU shall be determined from information on the Stepparent Questionnaire (CA 2.2) in effect for the claim month as follows:
 - (A) If the parent answered "no" to question number 2 (Is all or a part of your husband's income available for you to use for your children?), proceed to question number 6 and determine any amounts the parent reported in the third, fourth, and sixth boxes (i.e. deposited in my separate checking or savings account, turned over to me to use for our family expenses, kept in cash for both of us to use). The total of these amounts is the amount of cash that the stepparent made available to the AU.
 - (B) If the parent answered "yes" to question number 2 (Is all or a part of your husband's income available for you to use for your children?), proceed to question number 6 and determine any amounts the parent reported in the first, third, fourth, and sixth boxes (i.e. deposited in a joint checking or savings account, deposited in my separate savings or checking account, turned over to me to use for our family expenses, kept in cash for both of us to use). The total of these amounts is the amount of cash the stepparent made available to the AU.
 - (C) Compare the amount of cash made available to the AU, as determined in (A) or (B) above, to the net stepparent income calculated by subtracting prior child support liability, mandatory deductions, and the MBSAC for the stepparent unit from the stepparent's gross income. The amount to be subtracted from the MAP to determine potential entitlement for retroactive benefits is the lesser of the net stepparent income or the amount determined in (A) or (B) above.

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- (b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:
- (1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and
 - (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose).
- (c) Determine the net entitlement by subtracting the amount determined in (b) above from the amount of potential entitlement determined in (a) above.
- (d) Determine the amount of the retroactive benefit by adding to the net entitlement determined in (c) above any amount of an overpayment for the claim month which was recouped in a later month, when the overpayment was caused by the deeming of stepparent income to the AU, unless the claim includes the month in which the overpayment was recouped. The amount recouped includes recovery by grant adjustment or other means (i.e., demand letter, voluntary repayment, etc.) attributable to the month claimed.
- (e) The amount of the payable retroactive benefit is the amount determined in (d) above when the amount is a positive number.
- (1) The CWD shall deny the month claimed when the amount determined in (d) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the months claimed.
- (f) Determine the amount of the total retroactive benefits for a calendar year, computed using case record information, by adding together the amount(s) determined in (e) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

Example 1

*Claimant requests retroactive benefits for November 1980.
The case record:*

- (1) *Confirms that the stepparent lived in the home and neither he/she nor any of his/her own children received AFDC;*
- (2) *Shows the AU consisted of three persons;*
- (3) *Shows there was \$40 in net nonexempt income from other than the stepparent;*
- (4) *Shows there was no other adjustment to the AFDC grant;*
- (5) *Shows that the stepparent did not provide any cash to the AU to meet the needs of the AU;*
- (6) *Shows that the grant originally issued was \$433; and*
- (7) *Shows there was a willful overpayment associated with the failure to report the presence of the stepparent for the month claimed which was recouped in February 1981 in the amount of \$127 (allowing \$386 to the AU to meet the MBSAC level for the children in the AU by adding to the grant of \$165 the amount of available resources of \$50 in disregards and \$171 in net nonexempt income).*

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
- 0	Cash provided by stepparent
<u>\$ 433</u>	Potential entitlement per .636(a)
- 433	AFDC grant issued (per .636(b))
0	Net entitlement per .636(c)
<u>+ 127</u>	Amount of overpayment recouped because of nonreporting of stepparent
\$ 127	Potential retroactive benefit per .636(d), also, the payable retroactive benefit per .636(c)

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS,
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Example 2:

Same case situation as in Example 1 except: The grant originally issued was \$302 (in addition to the \$10 net nonexempt income, \$131 was computed from MPP Section 44-133.632 (stepparent computation) and deducted from MAP) and there was no overpayment caused by the stepparent living in the home. However, the case record confirms that \$60 was actually given to the AU by the stepparent to meet their needs.

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
- 60	Cash provided by stepparent
<u>\$ 373</u>	Potential entitlement per .636(a)
- 302	AFDC grant issued (per .636(b))
<u>\$ 71</u>	Net entitlement per .636(c)
+ 0	Amount of overpayment recouped because of the stepparent living in the home
<u>\$ 71</u>	Potential retroactive benefit per .636(d), .636(d), also the payable retroactive benefit per .636(e)

Example 3:

Same case situation as in Example 1 except: there was \$120 in cash given to the AU by the stepparent to meet their needs, the grant issued was \$324 (in addition to the \$302 originally issued, the claimant received a Green v. Obledo retroactive benefit of \$22) and there was no overpayment caused by the stepparent living in the home.

The amount of the payable retroactive benefit is as follows:

\$ 473	MAP for three
- 40	Net nonexempt income
- 0	Other adjustments
- 120	Cash provided by stepparent
<u>\$ 313</u>	Potential entitlement per .636(a)
- 324	AFDC grant issued (per .636(b))
<u><11></u>	Net entitlement per .636(c)
+ 0	Amount of overpayment recouped because of the stepparent living in the home
<u>\$ <11></u>	Potential retroactive benefit per .636(d)

In this example, the claimant is not eligible for a payable retroactive benefit because the amount of AFDC issued exceeds the claimant's entitlement. The claim for this month would be denied per .636(e)(1).

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.64 Determining Eligibility for Cases Which Were Denied/Discontinued

.641 The CWD shall review the response to the AFDC eligibility questions on the back of the claim form regarding the names and ages of the children living in the home and the annual income of the claimant and the stepparent during the month(s)/year(s) being claimed when the claimant did not receive AFDC, for completeness.

(a) For the purpose of this review, the response shall be considered complete when the claimant provides:

(1) The name and the birth date of at least one child living in the home during the month(s) claimed; and

(2) Annual income amounts for both the claimant and stepparent for the year(s) in which he/she has claimed any month of retroactive benefits.

.642 The CWD shall consider the completed information specified in .641(a) above consistent with the known case record information when:

(a) The name(s) and birth date(s) of the child(ren) provided on the claim form match those contained in the case record; and

(b) The amount of the combined annual income of the claimant and stepparent provided on the claim form (when averaged over a 12-month period) appears "reasonable" when compared to the monthly income previously reported.

(1) For this purpose, consider the combined annual income provided "reasonable" when, after determining its average monthly amount, the average monthly amount is approximately the same or greater than the monthly income previously reported.

.643 In order to obtain the needed information (as specified in .641(a) above) or the clarification needed to explain any inconsistency as specified in .642 above the CWD shall send the claimant the notice specified in .433 above.

.644 For those month(s) claimed in which the CWD has no case record or the case record information is insufficient to confirm the information provided regarding the name(s) and date(s) of birth of the child(ren) or the annual income of the claimant and stepparent, the CWD shall request, on the notice specified in .433 above, the following verifications:

(a) Evidence of the child(ren)'s date(s) of birth as provided for in MPP Section 42-111.1;

(b) Evidence of the amount of the combined annual income of the claimant and stepparent from either a copy of the federal or state income tax return for the years indicated; and/or

(c) A statement signed under penalty of perjury that the documentation requested is unavailable.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.645 Determination of the claimant's financial eligibility for the month(s) claimed for which the claimant did not receive AFDC and is a member of the class, shall be as follows:

- (a) From the name(s) and date(s) of birth of the child(ren) provided, determine the number who meet the age requirement for the month(s) claimed;
- (b) Add to the number arrived at in (a) above, one (the claimant) to arrive at the AU size.
- (c) From the amount of only the claimant's annual income, compute the monthly average of that income (annual income divided by 12).
- (d) Compare the monthly average income determined in (c) above, to 185 percent of MBSAC for the AU size determined in (b) as specified in (d)(1) below to determine if the claimant would have been financially eligible for the month(s) claimed when the claimant did not receive AFDC.

(1) 185% of MBSAC:

AU Size Year	1	2	3	4	5	6	7	8	9	10
1980	435	731	888	1093	1267	1421	1563	1726	1891	2055
1981	459	755	936	1112	1269	1426	1565	1706	1850	2011

(e) The claimant is eligible for retroactive benefits for each month claimed when the AU has at least one child in the home meeting the age requirement and the amount of the claimant's monthly income is less than 185 percent of MBSAC for the AU as determined in .645(d) above.

- (1) The CWD shall compute the amount of retroactive benefits for the month(s) of eligibility in accordance with .91 below (average retroactive benefits).
- (2) The CWD shall deny the month(s) of ineligibility with a NOA informing the claimant of the right to a state hearing.

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.7 Determination of Eligibility for Retroactive Benefits Under the Wright v. Woods
Court Order.

.71 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons whose AFDC cash aid, together with their total outside income, was less than 100 percent of MAP for the AU in the payment month during the period from July 18, 1976 through December 31, 1980.

.711 The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.72 Case Record Review

.721 For each month being claimed, (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms that there was a drop or cessation in the AU's outside income compared to the corresponding budget month; and
- (c) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .725 below.

.722 The case record documents listed below may assist the CWD in locating the information needed to compute the correct grant. Not all of the information contained on these documents may be needed.

- (a) A Request for Supplemental Payment (CA 40);
- (b) The appropriate Statement of Facts (CA 2, CA 8, or CA 20);
- (c) The appropriate Monthly Eligibility Report(s) (CA 7);
- (d) The budget worksheet;
- (e) Any NOA changing the amount of the grant because of the drop in income or the action taken related to the request for a supplemental payment; and
- (f) Any pertinent case narrative.

.723 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.

- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.

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.724 For those months claimed in which the CWD received a complete and internally consistent claim form, was unable to locate the case record, and was unable to deny the claim in accordance with .441 above or found the case record but it did not contain sufficient information to calculate the retroactive benefit as specified in .725 below, the CWD shall process the claim in accordance with .73 below.

.725 Calculation of Actual Retroactive Benefits

For the month(s) claimed in which the case record information confirms that the claimant's outside income dropped or stopped, and the case record contains sufficient information to calculate the amount of the retroactive benefits, the CWD shall determine the amount of the retroactive benefits for the month(s) claimed (see .46 above) as follows:

- (a) Determine the potential entitlement by subtracting from the MAP level for the AU (see Appendix A to MPP Section 50-014 for MAP levels):
 - (1) The net nonexempt income which was actually received in the month claimed (payment month);
 - (2) The \$30 and one-third disregard used in computing the net nonexempt income which was actually received in the month claimed; and
 - (3) Other allowable adjustments from MAP (e.g., overpayment recoupments).
- (b) Determine the AFDC cash aid already received by adding to the amount of the grant originally issued the following:
 - (1) Any supplemental payment issued in accordance with MPP Section 44-316 for those recipients requesting it prior to November 11, 1981; and
 - (2) Any underpayment correction made associated with the month claimed (retroactive benefits awarded under any other court ordered retroactive implementation, excluding interest, are to be considered underpayment corrections for this purpose).
- (c) Determine the net entitlement by subtracting the amount of AFDC cash aid received, as determined in (b) above, from the amount of potential entitlement determined in (a) above.
- (d) The amount of the payable retroactive benefit is the amount determined in (c) above when the amount is a positive number.
 - (1) The CWD shall deny the month claimed when the amount determined in (c) above is zero or a negative number. In this situation, the claimant is ineligible for a retroactive benefit payment because he/she has already received the maximum amount of aid entitled to for the month claimed.

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- (a) Determine the amount of the total retroactive benefits for a calendar year, computed using case record information, by adding together the amount(s) determined in (d) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for July 1977. The case record:

- (1) Confirms a drop in income between the budget month (May) and July, the payment month (month claimed);
- (2) Shows the AU consisted of three persons;
- (3) Shows there was \$150 in net earnings received in the budget month;
- (4) Shows there was \$40 in net nonexempt earnings received in the month claimed;
- (5) Shows the \$30 and one-third disregard for the month claimed equaled \$50;
- (6) Shows a recoupment of a nonwillful overpayment of \$50;
- (7) Shows the amount of the grant originally issued was \$156; and
- (8) Shows no supplemental payment was issued.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received
	in month claimed
- 50	\$30 and one-third disregard
	available in the month claimed
- 50	Nonwillful overpayment
	adjusted in July 1977
<u>\$ 216</u>	Potential entitlement per .725(a)
- 156	AFDC grant issued (.725(b))
<u>\$ 60</u>	Potential retroactive benefit per .725(c),
	also the payable retroactive benefit
	per .725(d)

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Example 2:

Same case situation as in Example 1 except: the AU also had income deemed from a UAM, and the claimant requested retroactive benefits under North Coast Coalition v. Woods for the same claim month; and it was determined under .536 above that the UAM actually made \$40 available to the AU in July. The AU received \$66 in the original grant payment and \$50 in North Coast retroactive benefits.

The amount of the payable retroactive benefit is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received
	in month claimed
- 50	\$30 and one-third disregard
	available in the month claimed
- 50	Nonwillful overpayment
	adjusted in July 1977
- 40	Income from the UAM actually
	made available to AU
\$ 176	Potential entitlement per .725(a)
\$ 66	AFDC grant originally issued
50	<u>North Coast Coalition</u>
	retroactive benefit
\$ 116	AFDC grant issued per .725(b)
\$ -116	
\$ 60	Potential retroactive benefit per
	.725(c), also the payable retroactive
	benefit per .725(d)

Example 3:

Same case situation as in Example 2 except: the UAM actually made available \$80 to the AU in July, the claimant received \$10 in North Coast benefits, and received \$30 in retroactive benefits under Green v. Obledo.

The computation of retroactive benefits is as follows:

\$ 356	MAP for three
- 40	Net nonexempt income received
	in month claimed
- 50	\$30 and one-third disregard
	available in the month claimed
- 50	Nonwillful overpayment
	adjusted in 7/77
- 80	Income from the UAM actually
	made available to AU
\$ 126	Potential entitlement per .725(a)
66	AFDC grant originally issued
+ 10	<u>North Coast Coalition</u>
	retroactive benefit
+ 30	<u>Green v. Obledo</u>
	retroactive benefit
\$ 106	AFDC grant issued per .725(b)
- 106	
\$ 20	Potential retroactive benefit
	per .725(c), also the payable
	retroactive benefit per .725(d)

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.73 Determining Eligibility for Average Retroactive Benefits

- .731 When the CWD is unable to locate the case record as specified in .72 above and the claimant is requesting retroactive benefits for three or more consecutive months in any calendar year of the claim period, the CWD shall review the response to the inquiry regarding the claimant's income source, the date income started and the date(s) the income stopped or dropped. For purposes of this review:
- (a) The response shall be considered complete when the claimant provides: (1) the source of the income; (2) the date that the income started; and (3) the date that the income dropped or stopped.
 - (b) The response shall be considered internally consistent when the completed information covers the month(s) being claimed.
- .732 The CWD may request missing information (specified in .731(a) above) or clarification by sending the claimant the notice specified in .433 above when the response is not complete or the information does not cover the month(s) being claimed.
- .733 The CWD may obtain verification of the information provided, as specified in .731(a), through a collateral contact made to the source of the claimant's income. Circumstances in which a collateral contact may be warranted include, but are not limited to:
- (a) When the source of the income indicated is not subject to frequent fluctuations, such as Social Security Benefits, Unemployment Insurance, etc.; and
 - (b) The date(s) that the income started and dropped or stopped do not correspond to the month(s) being claimed.
 - (1) In the event the collateral contact contradicts the information provided by the claimant, the CWD shall use the information obtained through the collateral contact to establish the month(s) of average retroactive benefits. The CWD shall deny any month(s) claimed, in which the collateral contact did not confirm the claimant's eligibility for retroactive benefits, with an NOA informing the claimant of his/her right to a state hearing.
- .734 For those month(s) claimed which are not subject to the review specified in .731, (i.e., less than three consecutive months per calendar year), or which do not warrant a collateral contact specified in .733, or for which the collateral contact confirms entitlement, the CWD shall compute the amount of average retroactive benefits in accordance with .91 below (average retroactive benefits).

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.8 Determination of Potential Eligibility for Retroactive Benefits Under the Angus v. Woods Court Order.

.81 Class Membership

Claimants potentially eligible to receive retroactive benefits are persons whose AFDC cash aid was reduced in order to recoup a willful overpayment and the amount of the aid received, when added to the amount of the claimant's net nonexempt and exempt income, was insufficient to meet: (a) his/her housing and utility costs; or (b) the Minimum Basic Standard of Adequate Care (MBSAC) for the number of children in the AU for the payment month during the period from September 1, 1977 through December 31, 1980.

.811 The CWD shall confirm the claimant's class membership from the information contained in the case record. In the event the case record cannot be located or the information contained in the case record is insufficient to confirm or deny class membership, the CWD shall accept the responses to the class membership qualifying questions contained on the claim form, signed under penalty of perjury, as confirmation.

.82 Case Record Review

.821 For each month being claimed, (payment month), (see .46 above), the CWD shall review the claimant's case record to determine:

- (a) If the claimant was receiving AFDC;
- (b) If the case record information confirms there was a willful overpayment recouped by grant adjustment in the month claimed;
- (c) If the claimant had a spouse who lived in the home during the period claimed; and
- (d) If the case record information is sufficient to compute the amount of retroactive benefits for the month claimed in accordance with .827 below.
- (e) *The case record documents listed below may assist the CWD in locating the information needed to compute the retroactive benefit. Not all of the information contained on these documents nor the documents themselves may be needed.*
 - (1) *The Application for Food Stamps (DFA 285, DFA 285A, or TEMP DFA 285-A);*
 - (2) *The appropriate Statement of Facts (CA 2, CA 8, or CA 20);*
 - (3) *The appropriate Monthly Eligibility Report(s) (CA 7);*
 - (4) *The budget worksheet;*
 - (5) *Any NOA related to the cause/recoupment of the willful overpayment; and*
 - (6) *Any pertinent case narrative.*

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- .822 In the event that the information on the claim form conflicts with the information contained in the case record, the CWD shall use the information contained in the case record to determine eligibility for and amount of retroactive benefits.
- (a) For the month(s) claimed in which the case record shows that the claimant is not a class member, the CWD shall deny those months claimed with an NOA informing the claimant of his/her right to a state hearing.
- .823 The CWD shall flag each claim which indicates, from either the information provided on the claim form or in that contained in the case record, that the claimant's spouse, who lived in the home during the month(s) and year(s) claimed, no longer lives with the claimant. The CWD must be alert for a claim being submitted by the other spouse.
- (a) For those claims which do not require flagging, the CWD shall proceed with the determination of the amount of retroactive benefits and issuance of the retroactive payment.
- (b) For claims which have been flagged, the CWD shall proceed with the determination of the monthly retroactive benefits specified in .824 through .827(a)(6) below. For these claims, the determination of the total retroactive benefits for each calendar year, specified in .827(a)(7) and/or .912 below, shall be held pending the determination of the receipt of a claim from the other spouse no longer in the home. In these situations, the CWD may exceed the 120 day processing period for the claim first received, as allowed in .323(b) above, so long as the processing deadline is met for the claim received from the other spouse.
- (1) The CWD shall send a letter to the claimant informing him/her that he/she is entitled to retroactive benefits but the exact amount of those benefits cannot be determined until it is known if the spouse, no longer living in the home, will also claim retroactive benefits.
- (c) If the CWD receives a claim from the other spouse, the determination of the amount of retroactive benefits, specified in .827(a)(7) and/or .912 below, for the month(s) and year(s) jointly claimed shall be processed together.
- (d) In the event that either spouse claims additional months, the determination of retroactive benefits, as specified in .824 through .827 below, for the additional months shall be made separate from the determination for those months jointly claimed.
- (e) When the CWD has determined that the other spouse, no longer in the home, did not file a claim for retroactive benefits, the CWD shall proceed with the determination of the amount of retroactive benefits and issuance of the retroactive payments to the initial claimant.

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- .824 For those months claimed in which the CWD receives a complete and internally consistent claim form, was unable to locate the case record, and was unable to deny the claim in accordance with .441 above or found the case record but it did not contain sufficient information, other than housing or utility costs, to calculate the retroactive benefit as specified in .827 below, the CWD shall determine the amount of the retroactive benefits in accordance with .91 below (average retroactive benefits). For those months claimed when only the housing or utility cost information contained in the case record is insufficient to determine the retroactive benefit, the CWD shall determine the amount of the benefit in accordance with .826 below.
- .825 For the month(s) claimed in which the case record information confirms that the claimant's grant was reduced because of the recoupment of a willful overpayment, the CWD shall determine whether the willful overpayment was caused by the claimant's failure to report either the presence of a UAM in the home or the presence or income of the stepparent living in the home.
- (a) When the reason for the willful overpayment was a result of the failure to report the presence or income of either the UAM or stepparent, the CWD shall determine if the claimant is also claiming retroactive benefits under North Coast Coalition v. Woods (MPP Section 50-014.5) or Wood v. Woods (MPP Section 50-014.6) and, if so, whether the amount of the overpayment recoupment was included in the computation of retroactive benefit as specified in .536 or .636 above.
- (b) When the total amount of the overpayment recoupment was used in the computation specified in .536(d) or .636(d) above, the CWD shall deny that month claimed because the recoupment has been fully refunded to the claimant under either MPP Section 50-014.5 or MPP Section 50-014.6.
- .826 For the month(s) claimed in which the case record information confirms that the claimant's grant was reduced because of the recoupment of a willful overpayment, the CWD shall determine if the claimant was certified for food stamps.
- (a) For the month(s) claimed in which the case record information indicates a certification for food stamps and is sufficient to determine the amount of the housing and utility costs, the CWD shall determine the amount of the retroactive benefits for those months in accordance with .827 below.
- (b) For the month(s) claimed in which the case record information indicates that the claimant was not certified for food stamps or the case record information is insufficient to determine the housing costs used in the calculation of the food stamp allotment, the CWD shall review the claim form (TEMP 1620) regarding the response to the question regarding receipt of food stamps and housing costs.
- (1) When the claimant provided the housing costs for the month(s) claimed, the CWD shall determine the amount of retroactive benefits in accordance with .827 below.

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- (2) When the claimant did not provide the housing costs for the month(s) claimed, the CWD shall send the claimant a notice requesting the completion of this information. A copy of the claim form shall be attached to the notice. The claimant will be allowed 30 days from the date of the notice to respond to the request. If the claimant fails to provide a response to the request for each month claimed, the CWD shall determine the amount of the retroactive benefits for those months based on that determined in accordance with .827(a)(1), (2) and (5), (MBSAC greater than cash) or .911(d)(1) (average retroactive benefit) below, whichever is greater. For the months in which housing costs are provided in response to this request, the CWD shall determine the amount of retroactive benefits as specified in .827 below.

.827 For the month(s) claimed for which it has been confirmed that:

- (a) The case record contains sufficient information to calculate the amount of the retroactive benefit or the combination of the case record information and the information provided on the claim form regarding the housing cost is sufficient to calculate the amount of the retroactive benefit, the CWD shall determine the amount of the retroactive benefits as follows:
- (1) Determine the amount of the AU's cash for the month claimed.
- (A) For the purpose of this determination, cash is defined as the total of:
- (i) The amount of AFDC received in the month claimed;
- (ii) The amount of any underpayment correction made associated with the month claimed. (Retroactive benefits awarded under any other retroactive regulation implementing a court decision, excluding interest, are to be considered an underpayment correction);
- (iii) The amount of net nonexempt income received in the month claimed; and
- (iv) The amount of any exempted income received in the month claimed. See NPP Section 44-111.2 for what is exempt from consideration as income.
- (2) Determine the MBSAC level for the number of children included in the AU during the month claimed. See Appendix B to NPP Section 50-014 for MBSAC levels.
- (3) Determine the housing and utility costs of the AU for the month claimed.
- (A) For claimants who were certified for food stamps in the month claimed and whose case record provides the housing and utility costs used in the food stamp computation, the CWD shall use the amounts contained in the case record.

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- (B) For claimants who were not certified for food stamps in the month claimed or those who were certified for food stamps but the case record information is insufficient to determine the housing and/or utility costs, the CWD shall use the housing costs provided on the claim form and the Standard Utility Allowance (SUA) specified (i) below for the month claimed.
- (i) The SUA for any month claimed in 1976, 1977, 1978, and 1979 is \$67. The SUA for any month claimed in 1980 is \$74.
- (C) Compare the amount of the housing and utility costs determined in either (A) or (B) above to the Maximum Aid Payment (MAP) level for the AU size during the claim month, (see Appendix A of MPP Section 50-014 for MAP levels). In the event that the housing and utility costs exceed the MAP level, the CWD shall use the MAP level for the purposes of this section.
- (4) Compare the MBSAC amount determined in (2) to the housing and utility costs determined in (3).
- (A) When the amount of the MBSAC for the number of children in the AU is equal to or exceeds the amount of the AU's housing and utility costs, the CWD shall determine the claimant's entitlement as specified in (5) below.
- (B) When the amount of the MBSAC for the number of children in the AU is less than the AU's housing and utility costs, the CWD shall determine the claimant's entitlement as specified in (6) below.
- (5) The claimant is entitled to retroactive benefits when the amount of the MBSAC for the number of children in the AU exceeds the amount of the AU's cash for the month claimed. The amount of the retroactive benefit shall be calculated by subtracting from the MBSAC level determined in (2) the cash determined in (1).
- (A) The month claimed shall be denied with an NOA informing the claimant of his/her right to a state hearing when the amount of the AU's cash is equal to or greater than the MBSAC for the number of children in the AU.
- (6) The claimant is entitled to retroactive benefits when the amount determined in (3) above exceeds the amount of the AU's cash for the month claimed. The amount of the retroactive benefit shall be calculated by subtracting from the amount determined in (3) the cash determined in (1).
- (A) The month claimed shall be denied with an NOA informing the claimant of his/her right to a state hearing when the amount of the AU's cash is equal to or greater than the amount determined in (3) above for the AU.

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- (7) Determine the amount of the total retroactive benefits computed using case record information for each calendar year by adding together the amount(s) determined in (a)(5) and (a)(6) above for each eligible month claimed in that year. See MPP Section 50-014.92 for the computation of interest and delivery of the retroactive payment.

Example 1:

Claimant requests retroactive benefits for December 1977. The case record:

- (1) Confirms the receipt of AFDC in the claim month;
- (2) Confirms there was a willful overpayment being recovered through grant adjustment;
- (3) Shows that the AU consisted of the caretaker relative and two children;
- (4) Shows there was \$40 in net nonexempt income in the claim month;
- (5) Shows there was \$50 in exempted income in the claim month;
- (6) Shows that the grant originally issued was \$177;
- (7) Shows the amount of the overpayment recoupment was \$109; and
- (8) Shows that the claimant was not on food stamps.

The claimant states that for this period, the AU's monthly housing costs were \$150.

The amount of the retroactive benefit is as follows:

\$ 177	AFDC grant issued
+ 40	Net nonexempt income
+ 50	Exempt income
<u>\$ 267</u>	Total case per .827(a)(1)
 \$ 297	 MBSAC for two (.827(a)(2))
\$ 150	Housing costs from claim form
+ 57	SUA per .827(a)(3)(B)
<u>\$ 207</u>	Housing and Utility Costs (.827(a)(3))

Is MBSAC for the number of children equal to or greater than the Housing and Utility Costs? YES.

Is MBSAC for the number of children greater than the total cash of the AU? YES.

\$ 297	MBSAC for two
- 267	Total cash
<u>\$ 30</u>	Retroactive Benefit per .827(a)(5)

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Example 2:

Same case situation as in Example 1 except: the claimant received food stamps in the month claimed and the case record indicates that the AU's housing costs were \$255 and the utility costs were \$55, the amount of the grant originally issued was \$207; and the amount of the overpayment recouped was \$90.

The amount of the retroactive benefit is as follows:

\$ 207	AFDC grant issued
+ 40	Net nonexempt income
+ 50	Exempt income
\$ 297	Total cash per .827(a)(1)

\$ 297 MBSAC for two (.827(a)(2))

\$ 255	Housing costs
+ 55	Utility costs
\$ 310	Housing and Utility Costs
	(.827(a)(3))

Is MBSAC for the number of children equal to or greater than the Housing and Utility Costs? NO.

Are Housing and Utility Costs greater than the total cash of the AU? YES.

\$ 310	Housing and Utility Costs
- 297	Total Cash
\$ 13	Retroactive Benefit per
	.827(a)(6)

.828 For claimants who are claiming benefits for October 1980, November 1980, or December 1980, the CWD shall review the case record for the payment month of January 1981 to determine whether or not recoupment of the willfully caused overpayment through grant adjustment was ceased in accordance with All-County Letter No. 80-73, dated December 3, 1980.

(a) For those claims in which the recoupment was ceased effective January 1981, no further action is necessary. The CWD shall proceed with the computation of interest and delivery of the retroactive payment contained in MPP Section 50-014.92.

(b) For those claims in which it is discovered that the January 1981 grant was reduced as a result of recouping the willfully caused overpayment through grant adjustment, the CWD shall refund the amount of the overpayment recouped after December 1980 in accordance with current underpayment correction regulations, contained in MPP Section 44-340, as modified by the Edwards v. McMahon court order.

(1) For the approved month(s) and year(s) claimed during the retroactive period the CWD shall proceed with the computation of interest and delivery of the retroactive payment in accordance with MPP Section 50-014.92.

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.9 Computation and Delivery of the Retroactive Payment

.91 Average Retroactive Benefit

.911 The CWD shall use the average monthly retroactive benefit amount for each court case as follows:

(a) North Coast Coalition v. Woods (MPP Section 50-014.5): \$101.00.

(b) Wood v. Woods (MPP Section 50-014.6): \$176.78.

(c) Wright v. Woods (MPP Section 50-014.7):

Approved Months Claimed	Amount
July 1967 - December 1976	\$162.85
January 1977 - June 1977	172.74
July 1977 through July 1979	181.32
August 1979 through June 1980	82.00
July 1980 through December 1980	95.00

(d) Angus v. Woods (MPP Section 50-014.8):

(1) For claimants who indicated "yes" to housing costs being greater than the grant plus other income: \$47.92.

(2) For claimants who indicated "yes" to the grant being reduced below the MBSAC level for the number of children: \$30.00.

.912 The CWD shall compute the amount of the average retroactive benefit amount to be awarded for each court case by multiplying the number of months claimed for each calendar year in which average retroactive benefits are to be used as determined in .534, .545(e)(1), .634, .645(e)(1), .734, .824, and/or .826(b)(2) above, by the appropriate amount specified in .911 above.

Example:

A claimant is eligible for the average retroactive benefit under North Coast Coalition v. Woods from July 1977 through March 1978 and Wright v. Woods for August 1978, September 1978, October 1979, and November 1979.

The computation of the average retroactive benefits is as follows:

North Coast Coalition v. Woods:

1977: 6 months x \$101.00 = \$606.00

1978: 3 months x \$101.00 = \$303.00

Wright v. Woods:

1978: 2 months x \$181.32 = \$362.64

1979: 2 months x \$ 82.00 = \$164.00

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.92 Computation of Interest and Retroactive Payment

.921 The CWD shall use the percentage specified below to compute the amount of interest on the payable retroactive benefits for a calendar year.

(a) The percentage of the total retroactive benefits payable as interest for a calendar year for each court case is as follows:

- (1) North Coast Coalition v. Woods and Wright v. Woods for 1976: 73%
- (2) North Coast Coalition v. Woods and Wright v. Woods for 1977: 70%
- (3) Angus v. Woods for 1977: 65%
- (4) North Coast Coalition v. Woods, Wright v. Woods and Angus v. Woods for 1978: 63%
- (5) North Coast Coalition v. Woods, Wright v. Woods and Angus v. Woods for 1979: 56%
- (6) North Coast Coalition v. Woods, Wright v. Woods, Wood v. Woods and Angus v. Woods for 1980: 49%
- (7) Wood v. Woods for 1981: 42%

.922 The CWD shall multiply the average retroactive benefits for that calendar year for each court case as determined in .912 above by the appropriate percentage specified in .921(a) above for that calendar year to arrive at the amount of interest for each court case.

Example:

North Coast Coalition v. Woods

Average Retroactive Benefits For:	1977	1978	1979
	\$606.00	\$303.00	\$ -0-
Times the Appropriate Percentage:	x 70%	x 63%	x N/A
Interest:	\$424.20	\$190.89	\$ -0-

Wright v. Woods

Average Retroactive Benefits For:	1977	1978	1979
	\$ -0-	\$362.64	\$164.00
Times the Appropriate Percentage:	x N/A	x 63%	x 56%
Interest:	\$ -0-	\$228.46	\$ 91.84

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

.923 The CWD shall multiply the actual retroactive benefits for that calendar year for each court case as determined in .536(f), .636(f), .725(e) or .827(a)(7) above by the appropriate percentage specified in .921 above to arrive at the amount of interest for that calendar year under each court case.

Example:

North Coast Coalition v. Woods

Actual Retroactive Benefits For :	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$450.00	\$250.00
Times the Appropriate Percentage:	<u>x N/A</u>	<u>x 63%</u>	<u>x 56%</u>
Interest:	\$ -0-	\$283.50	\$140.00

.924 Computation of Claimant's Retroactive Payment

(a) The CWD shall add the amount of the average retroactive benefit for each calendar year for each court case as determined in .912 above to the amount of interest determined in .922 above for that calendar year and that court case.

Example:

North Coast Coalition v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$606.00	\$303.00	\$ -0-
Interest:	<u>+424.20</u>	<u>+190.89</u>	<u>-0-</u>
Total:	\$1,030.20	\$493.89	\$ -0-

Wright v. Woods

Average Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$362.64	\$164.00
Interest:	<u>\$ -0-</u>	<u>+228.46</u>	<u>+ 91.84</u>
Total:	\$ -0-	\$591.10	\$255.84

(b) The CWD shall add the amount of the actual retroactive benefit for each calendar year for each court case as determined in .536(f), .636(f), .725(e) or .827(a)(7) above to the amount of the interest determined in .923 above for that calendar year and that court case.

Example:

North Coast Coalition v. Woods

Actual Retroactive Benefits For:	<u>1977</u>	<u>1978</u>	<u>1979</u>
	\$ -0-	\$450.00	\$250.00
Interest:	<u>+ -0-</u>	<u>+283.50</u>	<u>+140.00</u>
Total:	\$ -0-	\$733.50	\$390.00

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

(c) The CWD shall add to the amounts determined in .924(a) above to the amounts determined in .924(b) above to determine the claimant's total retroactive payment for calendar year under each court case.

Example:

North Coast Coalition v. Woods

Retroactive Benefits For :	<u>1977</u>	<u>1978</u>	<u>1979</u>
Amount determined in .924(a):	\$1,030.20	\$493.89	\$ -0-
Amount determined in .924(b):	+ -0-	+733.50	+390.00
Total Retroactive Benefits:	\$1,030.20	\$1,227.39	\$390.00

Wright v. Woods

Retroactive Benefits For :	<u>1977</u>	<u>1978</u>	<u>1979</u>
Amount determined in .924(a):	\$ -0-	\$591.10	\$255.84
Amount determined in .924(b):	+ -0-	-0-	-0-
Total Retroactive Benefits :	\$ -0-	\$591.10	\$255.84

(d) The CWD shall add together the amounts for each calendar year determined in .924(c) above under each court case to arrive at the claimant's total retroactive payment.

Example:

North Coast Coalition v. Woods

1977	\$ 1,030.20
1978	\$ 1,227.39
1979	\$ 390.00
Total Retroactive Payment:	\$ 2,647.59

Wright v. Woods

1977	\$ -0-
1978	\$ 591.10
1979	\$ 255.84
Total Retroactive Payment:	\$ 846.94

(e) For ease of warrant issuance, the CWD may round up to the next highest whole dollar the amount of the claimant's retroactive payment determined in .924(d) above.

Example:

Claimant's Payment
(rounded)

North Coast Coalition v. Woods
Wright v. Woods
Amount of Warrant

\$2,648.00
\$ 847.00
\$3,495.00

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS,
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

50-014

.93 Delivery of the Claimant's Retroactive Payment

- .931** For Angus v. Woods claimants who have had the amount of their retroactive benefits processed together with the claim from the other spouse, no longer living in the home, in accordance with .823(c) above, the CWD shall award one-half of the retroactive payment determined in .924(c) to each spouse, with an NOA informing each claimant of the method of computation and that one-half of the payment has been issued to the other spouse who also claimed benefits for those same month(s) and year(s).
- .932** The retroactive payment shall be delivered within 10-calendar days following the date of authorization.
- (a) For claimants who are eligible for payments (excluding those claimants in Angus v. Woods subject to .931 above) the CWD may issue a single warrant combining the claimant's retroactive payments for all court cases, provided that the claimant receives individual NOAs informing him/her of the payment computation for each court case.
- .933** The retroactive payment in .924(d) above, shall be used to offset any collectable outstanding overpayment (See MPP Section 44-351.3) which was discovered on or after January 1, 1981. Any amount in excess of the overpayment shall be paid to the claimant.
- .934** The retroactive payment received by a current AFDC recipient shall not be considered income or property for AFDC purposes in the month of receipt or in the following month (See MPP Section 42-213.2(h)).
- .935** Prior to or concurrent with the issuance of the retroactive payment, the CWD shall issue the appropriate NOA(s) explaining to the claimant:
- (a) How the retroactive payment was computed;
- (b) The provision specified in .934 above; and
- (c) His/her right to request a state hearing.

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
 WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

Appendix A

Maximum Aid Payment (MAP) Levels: July 1, 1976 through December 31, 1981

Periods	7/1/76 to 12/31/76	1/1/77 to 6/30/77	7/1/77 to 6/30/79	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	7/1/81 to 12/31/81
AJ Size							
1	157	166	175	201	232	227	248
2	258	273	287	331	382	374	408
3	319	338	356	410	473	463	506
4	379	402	423	487	563	550	601
5	433	459	483	556	642	628	686
6	487	516	543	625	722	706	771
7	534	566	596	686	792	775	846
8	581	616	649	747	862	844	922
9	628	666	701	807	932	912	996
10 or more	675	716	754	868	1002	981	1071

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50-014 SETTLEMENT OF NORTH COAST COALITION V. WOODS, WOOD V. WOODS, 50-014
WRIGHT V. WOODS, AND ANGUS V. WOODS (Continued)

Appendix B

Minimum Basic Standard of Adequate Care (MBSAC) Levels: July 1, 1976 through December 31, 1981

Periods	7/1/76 to 12/31/76	1/1/77 to 6/30/77	7/1/77 to 6/30/79	7/1/79 to 6/30/80	7/1/80 to 12/31/80	1/1/81 to 6/30/81	7/1/81 to 12/31/81
AU Size							
1	168	168	177	204	235	231	248
2	282	282	297	342	393	386	408
3	343	343	361	416	480	470	506
4	422	422	444	511	591	577	601
5	487	487	513	590	682	667	686
6	549	549	578	665	768	751	771
7	604	604	636	732	845	827	846
8	667	667	702	808	933	913	922
9	730	730	769	885	1022	1000	1000
10	794	794	836	962	1111	1087	1087
*	7	7	7	8	9	9	9

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*Each additional person.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference. Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 50-050:

50-050 FARIAS V. WOODS

50-050

.1 Background

On February 22, 1979, the United States Supreme Court issued a decision in the case of Miller v. Youakim. That decision stated that the federal AFDC-BHI Program was designed to include foster children placed with relatives. Regulations to implement the decision on a prospective basis were effective January 7, 1980.

On December 28, 1982, the Superior Court of the State of California issued an order in the case of Farias v. Woods. The order stated that those federally eligible children who were unable to obtain AFDC-BHI solely on the basis that they were residing with relatives were entitled to retroactive benefits from February 1, 1978 through the date on which they were transferred to AFDC-BHI or became ineligible. The date of transfer may be later than January 7, 1980 because the Youakim regulations were implemented on a flow basis. The class action was intended to reimburse the foster parent for services rendered during the retroactive time period.

Note: With few exceptions, the program referenced in these Farias v. Woods regulations is the former AFDC-Boarding Homes and Institutions (BHI) program. Albeit the AFDC-Foster Care (FC) program succeeded the AFDC-BHI program effective January 1, 1980 (mandated by Chapter 1166, Statutes 1980), AFDC-BHI references are purposely cited throughout Section 50-050 regulations to more accurately reflect the intent, language and time period addressed by the Farias v. Woods court order.

.2 Definitions

- .21 Adult Child means a person who is currently 18 years of age or older and who received AFDC-FG or U benefits instead of AFDC-BHI during the retroactive time period and who was denied AFDC-BHI or would have been denied AFDC-BHI if a formal application had been filed or whose AFDC-BHI benefits were discontinued solely because this child resided with a relative.
- .22 Application Period means the time period in which applications for Farias v. Woods retroactive benefits will be accepted. This period shall begin June 1, 1983 and shall continue through October 31, 1984.

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50-050 FARIAS V. WOODS (Continued)

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- .23 Diligent Effort means those activities which: (a) the county shall perform where necessary to locate and inform potentially eligible primary claimants as described in 50-050.324(b) or to locate records which verify the claimant's eligibility as described in 50-050.631 and .632; and (b) the claimant shall perform to locate and supply verification of eligibility as described in 50-050.631(b) and .632(b).
- .24 Minor Child means the person who is currently under 18 years of age and who received AFDC-FG or U benefits instead of AFDC-BHI during the retroactive time period and who was denied AFDC-BHI or would have been denied AFDC-BHI if a formal application had been filed or whose AFDC-BHI benefits were discontinued solely because this child resided with a relative.
- .25 Primary Claimant means the related caretaker other than the parent of a child who received AFDC-FG or U benefits instead of AFDC-BHI during the retroactive time period and the child was denied AFDC-BHI or would have been denied AFDC-BHI if a formal application had been filed or the child's AFDC-BHI benefits were discontinued solely because he/she was residing with and receiving care from a relative.
- .26 Retroactive Time Period means the period in which AFDC-BHI benefits for a child could not be obtained because the child was residing with a related caretaker other than the parent. For purposes of this program, such period shall commence on the date the child began receiving AFDC-FG or U benefits instead of AFDC-BHI but no sooner than February 1, 1978. This period shall continue until whichever of the following occurred first: (1) the date on which the related caretaker other than the parent began receiving AFDC-BHI benefits on behalf of his/her related child under the Miller v. Youakim regulatory revisions effective January 7, 1980, or (2) the date in which the related child became ineligible for AFDC-BHI.
- .27 Secondary Claimant means either:
- .271 The adult child who may apply for retroactive AFDC-BHI benefits under Farias v. Woods on his/her own behalf where the primary claimant cannot be located or fails to apply for these retroactive benefits.

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50-050 FARIAS V. WOODS (Continued)

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- .272 The minor child upon whose behalf the current caretaker may apply for retroactive AFDC-BHI benefits under Farias v. Woods where the primary claimant cannot be located or fails to apply for these retroactive benefits.

.3 Informing Potentially Eligible Persons of Availability of Retroactive Payments

- .31 In order to notify the class of potentially eligible persons, the Department of Social Services shall:

.311 Issue bilingual press releases in English and Spanish to all newspapers of general circulation in California, with a request to publish the information in a prominent location, and to all radio and television stations in California with a request that the information be broadcast as a public service announcement, when regulations become effective and once again 90 days later.

.312 Issue bilingual posters in English and Spanish informing the general public of the Farias v. Woods decision. A supply of bilingual flyers in English and Spanish shall be sent to each county welfare department. In addition, posters shall be distributed to offices of the Employment Development Department, Department of Health Services, county hospitals, United States Post Offices, and Social Security Administration offices with a request that they be prominently displayed until August 31, 1984. A copy of the poster and flyer suitable for photocopying shall be distributed to legal services offices, foster parent organizations, and foster care advocacy organizations, with a request for posting and a notice that more copies can be obtained from the local county welfare department.

.313 Provide information regarding the Farias v. Woods decision through the state's toll free number.

.314 Include the application form number for the retroactive payments on all informational material pertaining to the Farias v. Woods decision.

- .32 In order to notify the class of potentially eligible persons, the county shall during the period from June 1, 1983 through October 31, 1984:

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50-050 FARIAS V. WOODS (Continued)

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- .321 Prominently display bilingual, Farias v. Woods posters in all local Department of Social Services/Welfare waiting areas and other public locations within the welfare department and make Farias v. Woods application forms and information flyers available to the public at the same locations; and
- .322 Review all active AFDC(FG/U/FC) cases during the redetermination process beginning June 1, 1983, to determine whether any of the recipients are potentially eligible for these retroactive benefits. As a part of the review process, the county shall establish procedures for identifying children who were living with a caretaker relative, other than a parent; and
- .323 Review all new applications and discontinuances which occur during this period to identify any applicants or recipients who may have been eligible to receive AFDC-BHI but who were unable to obtain these benefits because they resided with a relative; and
- .324 After completing the review procedures specified in .322 and in .323 above, the county shall inform all persons identified as being potentially eligible of their right to apply for retroactive benefits in accordance with the following:
- (a) Where the potentially eligible person so identified is the AFDC child's current foster parent with whom the child is currently residing, the county shall inform the foster parent of his/her right to apply for retroactive benefits by giving him/her an application form and informational flyer either (1) in person at the redetermination interview or (2) by mail within 15 days of the review where no face-to-face interview is involved.
 - (b) Where the potentially eligible person so identified is the AFDC child's former foster parent with whom the child is no longer residing, the county shall within 60 days after identifying this potentially eligible person make a diligent effort to locate and provide Farias v. Woods information to him/her. This effort includes but is not limited to the following:

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50-050 FARIAS V. WOODS (Continued)

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- (1) Within 15 days after identifying this potentially eligible primary claimant, mail a copy of the application form and information flyer to his/her last known address.
 - (2) If the notice is returned from the primary claimant's last known address as undeliverable, the county shall contact the former foster child, the foster care licensing authority, and the Department of Motor Vehicles as necessary to obtain the primary claimant's current address.
 - (3) The county shall utilize the current telephone directory to determine a new address for or number to contact the primary payee.
 - (4) The application form and information flyer shall be re-mailed to any different address of the primary claimant discovered from the efforts specified in .324(b)(2) and in .324(b)(3) or ascertained from any other information or data available to the public and readily available to the welfare department staff.
- (c) Where the potentially eligible person so identified is the adult or minor child because the primary claimant cannot be located, the county shall, within 15 days after completing the diligent effort specified in (b) above, mail the application form and information flyer to the former child recipient, if currently an adult, or to the present custodian of the former child recipient, if said recipient is currently a minor.

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.4 Application for Retroactive Payment

- .41 Claimants shall contact the county welfare department to obtain the application form except potential recipients identified by case reviews required in 50-050.322 and .323 who shall receive the application form through the mail or by a face-to-face interview in accordance with 50-050.324.
- .42 A claimant shall complete a separate application for each child who may have been a federally eligible foster child during the retroactive time period.

50-050 FARIAS V. WOODS (Continued)

50-050

- .43 Applications shall be submitted to the county where the child was residing and receiving public assistance or was unable to obtain AFDC-BHI during the retroactive time period.
- .44 Completed application forms shall be submitted to the proper county by October 31, 1984. Application forms received after this date shall not be processed.
- .45 If a county receives an application form for a month in which it did not issue aid on behalf of the child:
 - .451 The county shall forward the form to the appropriate county, if known, within 10 days, or
 - .452 If the appropriate county is not known, the county shall return the forms to the claimant with an explanation as to why the claim cannot be processed and shall inform the claimant that if he/she still believes he/she received aid from that county, some form of verification of receipt of aid as specified in Section 50-050.63 must be provided to the county. It is then the claimant's responsibility to ensure the form is received by the appropriate county.
- .46 If the former child recipient, as an adult or through his/her current caretaker, applies for the retroactive benefits, the county shall determine whether the primary claimant has applied for the retroactive benefits and
 - .461 Where the primary claimant has already applied for the retroactive benefits, the county shall send the child (secondary claimant) notice of action denying the child's application based on the primary claimant's priority status.
 - .462 Where the primary claimant has not yet applied for the retroactive benefits, the county shall determine whether the child (secondary claimant) is eligible for the retroactive benefits within the 60-day time period required by Section 50-050.51. If the secondary claimant is determined to be eligible for the retroactive benefits, the county shall send him/her a notice of action indicating that if the primary claimant does not apply for these retroactive benefits, payment will be made after the completion of the application period subject to the provisions of 50-050.82.
- .5 Claims Processing
 - .51 Completed application forms shall be processed for eligibility determination within 60 days of the receipt of a completed application.

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50-050 FARIAS V. WOODS (Continued)

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- .52 Where the primary claimant is determined to be eligible for retroactive payments, the warrant shall be issued within 30 days of the eligibility determination date.
- .53 Where the secondary claimant is determined to be otherwise eligible, the warrant shall not be issued until expiration of the application period in order to allow the primary claimant the maximum period to apply for retroactive benefits. See Section 50-050.812.
- .54 Within the 60-day eligibility determination period, the county shall send to all applicants for these retroactive benefits a notice of action of the disposition of their claim, the method of retroactive payment computation, if applicable, and of the right to request a state hearing.
- .6 Determination of Eligibility for Retroactive Payment
- .61 Eligible Persons
- .611 Primarily, persons eligible to receive retroactive payments are related caretakers of federally eligible children who received AFDC-FG or U benefits instead of AFDC-BHI during the retroactive time period solely because the needy children were living with and receiving care from a relative other than a parent.
- .612 Secondly, where the related caretaker (primary claimant) has failed to apply for this retroactive payment, the child who should have received AFDC-BHI during the retroactive time period is eligible for retroactive benefits subject to the provisions in 50-050.812.
- .613 There shall be only one eligible person in any given month, (i.e., either the primary or secondary claimant) in the case of each child who was unable to obtain AFDC-BHI benefits during the retroactive time period.
- .62 Eligibility Determination
- .621 Based on a reconstruction of essential case information, the county shall determine that the following conditions of eligibility existed on a month-by-month basis during the retroactive time period before authorizing retroactive payment. If the case record is available, this information shall be taken from it. If the case record has been destroyed, this data shall be reconstructed through the use of facts supplied by the claimant on the application form, obtained by the county through county records or established by affidavits as set forth in 50-050.63.

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50-050 FARIAS V. WOODS (Continued)

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- (a) A needy child must have been living with a related caretaker other than a parent; and
- (b) The child must have met all conditions of federal eligibility including the requirement to have been placed with the related caretaker by court order; and
- (c) The child must have received AFDC-FG or U benefits instead of AFDC-BHI solely because he/she was living with a related caretaker other than a parent. However, it is not necessary that a formal application for AFDC-BHI was filed on the child's behalf.

.63 Verification Requirements

.631 Proof of the child's receipt of AFDC-FG or U benefits and the identity of his/her related caretaker during the retroactive time period is required. Verification shall be based on the following:

- (a) Information contained in the AFDC case record, if the AFDC or foster care case record and/or services record is available. Before determining that the case record is unavailable, the county shall search closed as well as open files in an effort to locate the appropriate case record.
- (b) If the AFDC or foster care case record and/or services record is unavailable, sources of verification provided by the claimant include, but are not limited to:
 - (1) The child's Medi-Cal card for any or all aid months in the retroactive time period, showing the AFDC case number and the former caretaker as payee.
 - (2) A signed statement from a physician or pharmacist who provided services to the child during any or all aid months in the retroactive period attesting that the costs of those services were billed to Medi-Cal and the AFDC case number under which they were billed.

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50-050 FARIAS V. WOODS (Continued)

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- (3) A copy of a Notice of Intended Action or a state hearing decision indicating the child was an AFDC recipient during the aid month and that the claimant was the caretaker relative.
- (4) Statement from the Family Support Division (FSD) indicating the child was listed as a welfare client in any or all aid months during the retroactive time period and that the claimant was the caretaker relative.
- (5) Copies of any other official documents indicating child's welfare status during any or all the aid months in the retroactive time period.
- (c) If the AFDC or foster care case record and/or services record is unavailable, information obtained by the county from county sources of information include, but are not limited to:
- (1) Records of cancelled AFDC warrants maintained by the county auditor for the retroactive time period.
- (2) Records of the Family Support Division (FSD).
- (3) Records of the county juvenile court which placed the child. (The county shall make diligent efforts to obtain a release from the foster child if needed to gain access to the juvenile court records).
- (4) Statements of social service or eligibility workers who remember the case based on names of such workers provided by the claimant.
- (d) If the AFDC or foster care case record and/or services record is unavailable, and the claimant produces verification of receipt of AFDC for one or more, but not all, aid months for which retroactive benefits are claimed, and where the county has been unable to obtain verification for the other months despite diligent efforts, the county shall either:

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50-050 FARIAS V. WOODS (Continued)

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- (1) Search the county records specified in (c) for further documentation. If such records are available and show no receipt of aid for those months for which the claimant has no verification, then the application for the unverified months of aid shall be denied; or
- (2) If such county records are unavailable, the county shall accept the sworn statement or affidavit of the claimant with respect to the other months so long as the eligibility criteria of .632 are satisfied.
- (e) If the AFDC or foster care case record and/or record is unavailable and, after diligent efforts, the claimant is unable to produce any verification of receipt of AFDC from the sources specified in (b), the county shall:
 - (1) Search the county records and sources of information as specified in (c). If records are available and show no receipt of aid, then the application shall be denied; or
 - (2) If such county records are unavailable, the county shall accept the sworn statement or affidavit of the claimant so long as the eligibility criteria of .632 are satisfied.
- .632 A copy of the court order making the child a dependent or ward of the court during the retroactive time period is required.
 - (a) The county shall, as an integral part of the review processes specified in 50-050.322 and .323, search the case record, if available, for a copy of this court order.
 - (b) If the case record is unavailable or if a copy of the court order cannot be obtained from the case record, the claimant shall be requested to provide a copy of the court order.

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- (c) If the claimant is unable to furnish a copy of the court order, the county shall assist the claimant by requesting a copy from the juvenile court and shall use diligent efforts to obtain a release of information from the foster child if necessary because of court confidentiality restrictions.
- .633 The county shall establish based on available evidence, that the child met the federal AFDC-FG/U linkage requirement during the retroactive time period.
- .634 Should a claimant who is able to provide the necessary verification fail or refuse to provide such verification necessary to determine eligibility for retroactive benefits within the 60-day processing time limit, the application shall be denied. The denial shall not preclude reapplication of the claimant, provided that it is submitted prior to October 31, 1984.
- .7 Effective Date and Computation of Retroactive Payment
- .71 Effective Date
- .711 The effective date of retroactive payment shall be either (1) February 1, 1978 if the federally eligible child began receiving AFDC-FG or U instead of AFDC-BHI because he/she was living with a caretaker relative other than a parent prior to or on February 1, 1978; or (2) the date on which the federally eligible child began receiving AFDC-FG or U instead of AFDC-BHI after February 1, 1978 but before the date the county implemented the Youakim regulations (DSS Manual Letter 80-1, dated February 28, 1980).
- .72 Computation Methodology
- .721 The computation of the amount of retroactive payment shall be made on a month-by-month basis. The following shall be determined for each month during the retroactive time period:
- (a) FBU composition, MAP for FBU, FBU income and grant amount paid in the aid month.
- (b) AFDC-BHI grant applicable to the aid month.
- .722 The retroactive payment shall be the difference between aid paid and the applicable AFDC-BHI payment after deducting the child's net nonexempt income.
- (a) Example:
- An AFDC-FG payment for an FBU of one child was made for the month of August 1979. The child had Social Security income of \$50. The aid paid was \$151 (\$201 less \$50). The county's AFDC-BHI rate was \$250 per month which would have resulted in an AFDC-BHI payment of \$200 (\$250 less \$50). The retroactive payment for the month of August 1979 would be \$49 which is the difference between the \$200 AFDC-BHI payment and the \$151 AFDC-FG payment.

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50-050 FARIAS V. WOODS (Continued)

50-050

.723 The AFDC-FG or U aid paid on behalf of the child recipient is determined as follows:

- (a) If the child recipient was the only member of the FBU, the aid paid shall be the entire amount of the AFDC payment.
- (b) If the child was a member of an FBU which consisted of several children who were not eligible for AFDC-BHI because they were residing with a relative other than a parent, then the aid paid for each of these children shall be a prorated portion of the AFDC payment.

(1) Example:

In August 1979, four brothers and sisters were living with a grandparent and were receiving an AFDC-FG grant of \$437 (\$487 less \$50 income) for an FBU of four. One child had social security income of \$50 and the other three children had no income. The aid paid for each child is 1/4 of the AFDC payment less the child's separate income. Three of the children would have a prorated aid payment of \$122 (\$487 divided by four). The child with income would have a prorated aid payment of \$72 (\$122 less \$50).

- (c) If the caretaker is a member of the FBU only because he/she is the child's needy caretaker relative, the aid paid shall be the entire amount of the AFDC payment.

(1) Example:

In August 1979, a grandmother applied for AFDC on behalf of herself and her two grandchildren. It was determined that the grandmother was needy and she was added to the children's FBU as a needy caretaker relative. She received an AFDC-FG payment of \$410 from an FBU of three persons. Since the grandmother was not eligible for AFDC except as the children's needy caretaker, the aid paid on behalf of each child is one-half of the entire AFDC payment or \$205 per child.

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50-050 FARIAS V. WOODS (Continued)

50-050

- (d) If the child was added to the caretaker relative's existing FBU, the aid paid on behalf of the added child shall be the difference between the grant paid to the FBU with and without the added child.

(1) Example:

In August 1979, the child was added to his/her aunt's family of three. The aid paid on behalf of the child is the difference between the grant paid for an FBU of four and the aunt's FBU of three. Since the child had no other income, the aid paid on behalf of the child would be \$77 [\$487 (MAP for four) less \$410 (MAP for 3)].

- (e) Maximum Aid Payment (MAP) rates which existed during the period of Farias v. Woods lost benefits.

Size of FBU	MAP Effective February 1, 1978- June 30, 1979	MAP Effective July 1, 1979- December 31, 1979
1	\$175	\$201
2	287	331
3	356	410
4	423	487
5	483	556
6	543	625
7	596	686
8	649	747
9	701	807
10 or more	754	868

- .73 Although the amount of retroactive payment shall be computed on a monthly basis, the county may consolidate payments covering more than one month as long as the time frames in Section 50-050.5 are met.

.6 Payee and Aid Payments

.81 Determination of Payee

.811 Primary Payee

- (a) The primary payee shall be the primary claimant as defined in Section 50-050.25.
- (b) No other payee is authorized in a case unless the primary claimant has failed to apply for the retroactive benefits.

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50-050 FARIAS V. WOODS (Continued)

50-050

.812 Secondary Payee

- (a) Where the primary claimant has failed to apply for the retroactive benefits, either the adult child or the minor child may be authorized as a secondary payee in accordance with the following:

(1) Adult Child Applying on His/Her Own Behalf

If the adult child applies for the retroactive benefits, the county shall determine whether the adult child is eligible for retroactive payment according to Section 50-050.6. However, no payment shall be made until after the expiration of the application period in order to allow the primary payee the maximum time period to apply for the retroactive benefits. If the primary payee does not apply for the retroactive benefits, the adult child shall be paid within 30 days after the close of the application period.

(2) Current Caretaker Applying on Behalf of the Minor Child

- (A) Where the current caretaker applies for retroactive benefits on behalf of the minor child, the county shall determine whether the child is eligible for retroactive benefits according to Section 50-050.6. However, no payment shall be made until after expiration of the application period in order to allow the primary payee the maximum time period for applying for retroactive benefits.

- (B) Where the primary payee does not apply for retroactive benefits and the child is still under 18 at the end of the application period, the county shall place the child's retroactive payment in an irrevocable trust in a financial institution to be designated by the Department of Social Services within 30 days after the close of the application period.

- (i) In the case of each child under 18 years old for whom a claim has been granted and benefits are payable, the county shall provide the trustee with the child's name, date of birth, current address, current custodian and the total amount of benefits which are paid on behalf of the child.

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50-050 FARIAS V. WOODS (Continued)

50-050

.82 Effect of Retroactive Payments on Public Assistance Eligibility

- .821 Any retroactive payments received pursuant to these regulations shall be treated as underpayments and shall not be counted as income or resources in computing claimants' current public assistance grants, if any, or in determining their eligibility for other public assistance benefits, for the month in which the payment is received and for the month following receipt.

.9 Reporting Requirements

- .91 Counties shall maintain records of and report the following information to SDSS on a quarterly basis:

- .911 The number of cases in which at least one application for retroactive benefits has been filed. Each child shall be treated as a separate case but applications may be on file in the same case from both the primary and secondary claimants; and
- .912 The number of applications approved; and
- .913 The total amount of money paid for retroactive claims under this judgment; and
- .914 The number of applications which resulted from the case review process in Sections 50-050.322 and .323; and
- .915 The number of applications which resulted from publicity efforts (e.g., walk-in applications) in Section 50-050.321; and
- .916 The current recipient status of the child involved in each claim (e.g., number who are current recipients and number who are no longer receiving AFDC-FG, U or FC).

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50-050 FARIAS V. WOODS (Continued)

50-050

- .92 At the conclusion of the application period the counties shall report the following data regarding Farias v. Woods claims from secondary claimants:
- .921 The total number of applications filed and the total number of claims granted for minors and for adult children, and
- .922 The total number of claims paid and the total amount of money paid for adult children, and
- .923 The total amount of money payable to the trust accounts of minors and the number of minors on whose behalf the benefits are payable to these trust accounts.

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Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In this office of the Secretary of State
of the State of California

OCT 03 1988
At 4:52 o'clock P. M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0906-02

[Signature] 9-30-88
LINDA STOCKDALE BREWER
DIRECTOR
Date

FACE SHEET

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

STATE DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

9/30/88

RDB #0488-17

FILED

In this office of the Secretary of State
of the State of California

OCT 25 1988

At 3:55 o'clock P. M.

MARCH FONG EU, Secretary of State

By [Signature]
Deputy Secretary of State

For use by Secretary of State only

ENDORSED
APPROVED FOR FILING
OCT 25 1988

Office of Administrative Law
For use of Office of Adm Law

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions) TITLE TELEPHONE
Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
(Complete Part 4 below)
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 63-077; 63-704.18.
SECTIONS AMENDED: 63-102c.(5); 63-103.21i.(2); 63-201.4; 63-301.52, .531, .541(b), .633, and .634; 63-503.212(a) and (c), .22, and .232(c)(4).
SECTIONS REPEALED: 63-301.633.
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 63-201.43 and 63-503.212(c)(2).
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
June 3, 1988
b. DATE OF FINAL AGENCY ACTION
SEP 30 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
August 26 - September, 1988
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State. (11-01-88)
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☒ Effective on 11-01-88 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(ii)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on May 31, 1988, and which became effective on July 1, 1988.

Manual of Policies and Procedures, Division 63, Sections:

Sections Amended: 63-102c.(5); 63-103.21 i.(2), 63-201.4, 63-301.52; 63-301.531, 63-301.541(b), 63-301.633, 63-301.634, 63-503.212(a) and (c), 63-503.22, 63-503.232(c)(4).

Sections Adopted: 63-077; and 63-704.18.


Section Repealed: 63-301.633.

These regulations were presented at public hearing on July 20, 1988. As a result of the public hearing the following sections have been changed.

Sections Amended: 63-201.43, and 63-503.212(c)(2).

Sections Adopted: None

Sections Repealed: None



LINDA S. McMAHON
Director

9/30/88

Date

DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88
Date

- 1 Effective July 1, 1988 the CWDs shall implement the revised and adopted provisions. The sections affected are as follows: 63-102(c)(5); 63-103.21(i)(2); 63-201.4; 63-301.52, .531, .541(b), .633, .634, .635; 63-503.212(a), .212(c), .22; 63-503.232(c)(4) and 63-704.18.

Authority Cited: Sections 18901, 18902, and 18904, Welfare and Institutions Code.

Reference: Sections 18905.1, 18911, 18912, 18913, and 18914, Welfare and Institutions Code.

- c. (5) "Compliance with CWD Time Limits" means action within the timeframes specified unless the last day for taking action falls on a Sunday or other holiday, as specified in Government Code Sections 6700 and 6701, in which case the last day for taking action is on the next normal working day except for expedited service timeframes as specified in 63-301.531. If the last day falls on a Saturday the CWD shall take action on or before that date.

Authority Cited: Sections 18901, 18902, and 18904, Welfare and Institutions Code.

Reference: Section 18914(b), Welfare and Institutions Code and 7 CFR 273.2(i)(3)(i) and (ii).

.2 State Agency Delegations to County Agencies

.21 (Continued)

i. (Continued)

(2) Accumulate statistical data for the following reports: (Continued)

(c) DFA 296X, Food Stamp Program
Expedited Service Quarterly
Statistical Report

Authority Cited: Sections 18901, 18902, and 18904, Welfare and Institutions Code.

Reference: Section 18913, Welfare and Institutions Code.

Amend Section 63-201.43 to read:

63-201 GENERAL TERMS AND CONDITIONS (Continued)

63-201

•4 Information Available to the Public or Applicant

- 41 The State Food Stamp Manual shall be maintained by the CWD in each local food stamp office for examination by members of the public on regular work days during regular office hours.
- 42 CWDs shall make available, upon request, a list of emergency food providers in the area served by each local food stamp office. In addition, this list may be used, where needed, to refer individuals to emergency food sites that may be able to provide assistance. The list shall be compiled and updated by CWDs based on information from the food providers.
- 43 CWDs shall make available, upon the request of food stamp applicants, CWDs shall make available nonpromotional information on local legal services and welfare rights organizations that containing their addresses and phone numbers of local legal services and welfare rights organizations.

Authority Cited: Sections 18901, 18902 and 18904, Welfare and Institutions Code.

Reference: Sections 18911(e) and (f), Welfare and Institutions Code.

.5 Expedited Service (Continued)

.52 Identifying Households Needing Expedited Service

The CWD's application procedures shall be designed to identify households eligible for expedited service at the time the household files an application. A CWD employee or volunteer shall inform potential applicants orally of the right to expedited service for qualifying households, how to initiate the process, the availability of assistance in filling out the application, and shall be responsible for screening applications as they are filed. The CWD shall assist an applicant, upon request, in filling out forms and completing the application process. The screening shall consist of a review of the DFA 285-A1 if the applicant elected to complete the expedited service section. The CWD shall immediately forward the application for processing when it is determined that the applicant is entitled to expedited service. The CWD shall also advise individuals who inquire about the Food Stamp Program by telephone of the expedited service processing standards for qualifying households. (Continued)

.53 Processing Standards (Continued)

.531 Expedited Service Households

For households entitled to expedited service, the CWD shall make the ATP or coupons available to the recipient either by mail or for pickup at the household's request, no later than on the third calendar day following the date the application was filed. For purposes of this section, a weekend (Saturday and Sunday) shall be considered one calendar day. However, if the third calendar day is a nonworking day when coupons cannot be issued, the CWD shall make coupons available on or before the working day immediately preceding the nonworking day. Whatever system a CWD uses to ensure meeting this delivery standard, shall be designed to allow a reasonable opportunity for redemption of ATPs no later than the third calendar day following the day the application was filed.

(a) For example, if the application is filed on Thursday, coupons must be made available to

the households on Monday. However, if Monday is a holiday, coupons must be made available on Friday or Saturday if coupons are issued on that day.

.54 Special procedures for Expediting Service

.541 (Continued)

- (b) All reasonable efforts shall be made to verify within the expedited processing standards, the household's residency, as specified in Section 63-300.515, income statement (including a statement that the household has no income), liquid resources, and all other factors required by Section 63-300.51 through collateral contacts or readily available documentary evidence. However, benefits shall not be delayed beyond the delivery standards prescribed in 63-301.53 solely because these eligibility factors have not been verified. Verification of these eligibility factors shall be postponed if unobtainable within the expedited processing standards.

Authority Cited: Sections 18901, 18902, and 18904, Welfare and Institutions Code.

Reference: Sections 18905.1, 18912(a) and (b), 18914(b), Welfare and Institutions Code and 7 CFR 273.2(i)(4)(i).

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.6 PA Households (Continued)

.63 Application Processing Standards and Procedures (Continued)

.633 For all households, the CWD shall anticipate the amount and date of receipt of the initial PA payment. If the PA payment will not be received until a subsequent month, the CWD shall vary the household's benefit level according to the anticipated receipt of the payment and notify the household (DFA 377.1).

(a) If the amount or date of receipt of the initial PA payment cannot be anticipated with reasonable certainty at the time of the food stamp eligibility determination, the PA payment shall be handled as a change in circumstances. However, the CWD is not required to send a notice of adverse action if the receipt of the PA grant reduces, suspends, or terminates the household's food stamp benefits, provided the household is notified in advance that its benefits may be reduced, suspended, or terminated when the grant is received. Termination of the case shall be permitted if the household is not categorically eligible in accordance with Section 63-301.6.

See Handbook Section 63-503.212(a)(1)(A) for an example.

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.634 (Continued)

Authority Cited: Sections 18901, 18902, and 18904, Welfare and Institutions Code.

Reference: Section 18914(b), Welfare and Institutions Code; 7 CFR 273.2(j)(1)(iv); and 7 CFR 273.10(c)(1)(i).

Amend Sections 63-503.212(c)(2) to read:

63-503 DETERMINING HOUSEHOLD ELIGIBILITY AND BENEFIT 63-503
LEVELS (Continued)

•2 Determining Resources, Income and Deductions

•21 Prospective Budgeting in the Beginning Months for
Households Who Shall be Subject to Retrospective
Budgeting (Continued)

•212 Determining Income (Continued)

(a) Actual Income

For purposes of determining the household's eligibility and level of benefits during the beginning months, the CWD shall take into account the actual income already received by the household during the month of application and any anticipated income the CWD and the household are reasonably certain will be received during the remaining beginning months. Income shall not be counted if its receipt is uncertain. If the exact amount of anticipated income is uncertain only that portion which can be anticipated with reasonable certainty shall be counted as income. In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, the household may elect to income average, as provided in Section 63-503.212(b).

(1) The following are examples of how to determine anticipated income:

(A) The anticipated receipt of an initial PA/GA payment is counted in determining eligibility only if the PA/GA payment has been approved and authorized and will be issued within the month.

(B) The anticipated receipt of earned income, such as income from a new job, will only be

HANDBOOK

counted if it can be determined with reasonable certainty that a specific amount of earning will be received within the month, e.g., the person is currently employed or will be employed during the month and the pay day(s) is within the month.

- (C) The anticipated receipt of other income, such as unemployment insurance benefits, will only be counted if it can be verified that benefits will be received within the month, e.g., award letter indicates the payment amount and that it can be expected by or on a specified date and that date falls within the month.

(b) (Continued)

(c) Income Only in the Month Received

- (1) Income anticipated during the beginning months shall be counted as income only in the month it is expected to be received, unless the income is averaged. Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the CWD shall use the exact amount whenever possible. If the exact amount is not available, the CWD shall use the amount which is reasonably certain to be received in accordance with Section 63-503.212(a).

- (2) Wages held at the request of the employee shall be considered income to the household in the month the wages would otherwise have been paid by the employer. ~~However, wages~~ held by the employer, as a general practice, even if in violation of the law, shall not be counted as income

to the household, unless if the household anticipates that it will ask for and receive in an advance, or the advance shall be counted as income, that it will receive - Income from wages that were previously held by the employer as a general practice and that were therefore not previously counted as income by the CWD. Advances on wages shall be counted as income in the month received. Advances on wages shall count as income in the month received only if the CWD is reasonably certain of its receipt, in accordance with Section 63-503.212(a).

(3) (Continued)

.22 Transitioning Households from Prospective to Retrospective Budgeting

A household's benefit level shall be computed prospectively during the beginning months of the household's certification period by considering all factors of eligibility. The prospective determination of eligibility and benefit level shall be based on the income and other circumstances that the CWD is reasonably certain will exist for that household during the beginning months as specified in Section 63-503.212(a). (Continued)

.23 Households Subject to Retrospective Budgeting After the Beginning Months (Continued)

.232 Retrospective Budgeting (Continued)

(c) (Continued)

- (4) After the beginning months, the CWD paid grant for the issuance month shall be anticipated with reasonable certainty, as defined in Section 63-503.212(a). The CWD shall ensure that any additional or corrective payments to the CWD paid grant received in and for the issuance month are counted prospectively. If the CWD had not anticipated the payment or did not have time to

budget it prospectively the CWD must budget the payment retrospectively. The household shall be provided with a notice of any changes in its allotment as specified in Section 63-504.265. Refer to Section 63-501.1 for definition of resources and Section 63-502.2 for income exclusions.

Authority Cited: Sections 18901, 18902, and 18904, Welfare and Institutions Code.

Reference: Section 18914(b), Welfare and Institutions Code; and 7 CFR 273.10(c)(1)(i) and (c)(2)(i) and (ii).

63-704 COUNTY WELFARE DEPARTMENT AND CONTRACTED ISSUANCE 63-704
AGENTS REPORTING RESPONSIBILITIES

.1 Reporting Requirements (Continued)

- .18 The CWD is responsible for preparing the DFA 296X, Food Stamp Program Expedited Service Quarterly Statistical Report. The CWD shall submit the DFA 296X to SDSS on or before the 20th day of the month after the end of each calendar quarter.

Authority Cited: Sections 18901, 18902 and 18904, Welfare and Institutions Code.

Reference: Section 18913, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In this office of the Secretary of State
of the State of California

OCT 25 1988
At 3:55 o'clock
MARCH FONG EU, Secretary of State
By Mulla
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0930-02C


LINDA STOCKDALE BREWER
DIRECTOR

10/25/88
Date

REGULAR FACE SHEET

88-C928-03

(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

RDB #1187-51

FILED
In this office of the Secretary of State
of the State of California

State Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

9-23-88

OCT 26 1988
At 4:25 o'clock P.M.
MARCH FONG EU, Secretary of State
By Annella Curry
Deputy Secretary of State

For use by Secretary of State only

ENDORSED
APPROVED FOR FILING

OCT 26 1989

For use of Office of Adm Law

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: 14-130a., b., c. (2), f. (1), g., h., i. (1), k., l., m., n., o., p. (1), q., r., u., v., w., x., y., and z.; 14-210.15; 14-212.11-14; 14-213.12, 15, and 16
SECTIONS AMENDED: 14-130; 14-201; 14-205; 14-210; 14-211; 14-212; and 14-213
SECTIONS REPEALED: 14-211.1 and .2; 14-212.1-.5; 14-214; 14-215; 14-220; 14-221; 14-222; 14-230; and 14-231
b. The following sections listed in 3a contain modifications to the text originally made available to the public: 14-130 (b) and c. (2); 14-210.15; 14-212.1; 14-213; 14-213.12 and .14; 14-220; 14-221; 14-222; and 14-231
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
April 1, 1988
b. DATE OF FINAL AGENCY ACTION
SEP 27 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
August 12, 1988-August 29, 1988
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☒ Effective on 12-01-88 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(ii)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

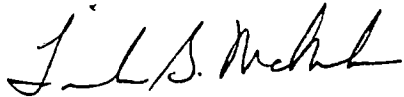
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88

Date

Adopt as "Reserved" Sections 14-130a., b., g., h., k., l., m., n., q., r., and u. through z.; renumber Sections 14-130(a) to c.(1), (b) to d.(1), (c) to e.(1), (d) to e.(2), (e) to i.(2), (f) to j.(1), (g) to o.(1), (h) to p.(2), (i) to s.(1), (j)(1) through (5) to t.(1) through (5), and (k) to t.(2); amend Sections 14-130e.(2), o.(1), h.(2) and s.(1); and adopt Sections 14-130c.(2), f.(1), i.(1) and p.(1) to read:

14-130 DEFINITIONS

14-130

a. Reserved

b. Reserved

~~f~~~~a~~c.(1) (Continued)

(2) "Continuing training" means an ongoing program of training planned to enable CWD employees to: (a) reinforce his/her basic knowledge and develop the required skills for the performance of specific functions, and (b) acquire additional knowledge and skill to meet changes due to enactment of new legislation, development of new policies, or shifts in program emphasis.

~~f~~~~b~~d. (Continued)

~~f~~~~e~~e.(1) (Continued)

~~f~~~~d~~ (2) (Continued)

f. (1) "Full-time training" means training that requires employees to be temporarily relieved of all responsibility for performance of current work to participate in training.

q. Reserved

h. Reserved

i. (1) "Initial/Induction in-service training" means a period of intensive, task-oriented training to prepare new employees to assume job responsibilities.

~~f~~~~e~~ (2) "In-service training" means training developed, coordinated or conducted by the county welfare department CWD, or by a contracted instructor or

training organization, to meet a specific welfare department CWD need.

f+t+j.(1) (Continued)

k. Reserved

l. Reserved

m. Reserved

n. Reserved

f+g+o. "Out-service training" means training developed, coordinated or conducted outside the county welfare department CWD to which the county welfare department CWD authorizes staff attendance.

p. (1) "Part-time training" means training that allows employees to continue full-time in their jobs or requires only partial reduction of work activities to participate in training.

f+h (2) "Pre-employment training" means the training of individuals who are not yet employed by the county welfare department CWD but who are receiving financial assistance (which may include educational costs and/or stipends) for training from the local agency CWD and have made a legally binding commitment to work for the county welfare department CWD for a period of time at least equal to the period for which financial assistance was provided.

q. Reserved

r. Reserved

f+i+s.(1) "Stipend" means money paid to a county welfare department CWD employee or prospective employee in lieu of salary and fringe benefits to enable the individual to attend full-time training, eight weeks or longer in duration. This allowance is generally computed and paid on a monthly basis and may include the following components: "maintenance allowance" for the student; "dependency allowance"; allowance for "educational costs"; and an allowance for "compulsory employee benefits" such as retirement based on the "maintenance allowance" portion only, GASBI workers' compensation, health insurance, etc. Finally, the particular component allowances included and the amount of

allowance for each component The stipend is subject to county CWD policy and the availability of funds and does not include educational costs.

fjtt.(1)-(5) (Continued)

tk+ (2) (Continued)

u. Reserved

v. Reserved

w. Reserved

x. Reserved

y. Reserved

z. Reserved

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 235.61.

Amend Section 14-201 to read:

14-201 FUNDING

14-201

- .1 Federal and/or state financial participation ~~is~~ shall be available only for those training costs specified as "allowable" in this chapter.
- .2 The allowable costs for training shall be claimed ~~to Group IV Staff Development in the staff development cost pool~~ on the County Administrative Expense Claim and allowable training costs shall not be claimed as in any administrative other allocable support cost pool.
- .3 Reimbursement shall be subject to the availability of federal and state funds.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 95.507.

Renumber introductory paragraph to Section 14-205.1 and Sections 14-205.1, .11, .12, .2, and .3 to Sections 14-205.11, .111, .112, .12, and .13, respectively and amend Sections 14-205.111, .112, and .13 to read:

14-205 CONDITIONS FOR REIMBURSEMENT

14-205

.1 The training costs identified in this chapter are subject to reimbursement as staff development costs provided the following conditions are met:

.11 Trainee responsibilities:

.111 County welfare department (CWD) trainees who are attending out-service training programs for eight or more consecutive work weeks have a legally binding commitment to continue to work in the CWD for a period of time equal to the period for which financial training assistance is granted.

.112 Persons in both income maintenance and social services pre-employment training programs have a legally binding commitment to work for the CWD for a period of time equal to the period for which financial training assistance is granted, provided employment is offered within two months after training is completed.

.12 (Continued)

.13 The CWD shall pursue recoupment of funds by the EWA from paid to trainees who failing to fulfill their commitment under this section. Any recoupment shall be treated as a refund and deducted from total training costs.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 277 Appendix A(A)(26) and 45 CFR 235.63.

Renumber Sections 14-210 (introductory paragraph), .1, .11, .12, .13, .2, .3, and .4 to Sections 14-210.1, .11, .111, .112, .113, .12, .13, and .14, respectively; amend Sections 14-210.1, .11, .113, .12, and .14; and adopt Section 14-210.15 to read:

14-210 ALLOWABLE COSTS OF THE COUNTY WELFARE DEPARTMENT 14-210
TRAINING UNIT

- .1 The following costs connected with the county CWD staff development effort shall be subject to eligible for reimbursement.
- .11 Salaries, benefits, travel and per diem of the training personnel, while they are assigned to a county CWD training activity unit, provided:
 - .111 (Continued)
 - .112 (Continued)
 - .113 The county CWD develops and conducts its training in accordance with the standards of this division.
 - .12 Costs of tTraining supplies and materials, postage, books, and audiovisual equipment and aids.
 - .13 (Continued)
 - .14 Costs of rRental space for the training space activities as defined in this Chapter when the training space is separate and apart from the CWD.
 - .15 Registration fees for institutes, seminars, or workshops related to the job which are sponsored by professional organizations.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 277 Appendix A(A)(26); 45 CFR 96.30; and 45 CFR 235.64.

Renumber introductory paragraph to Section 14-211.1 and Sections 14-211.1 and .2 to .11 and .12, respectively and amend Sections 14-211 (Title) , .1, .11, and .12 to read:

14-211 ALLOWABLE COSTS FOR INCOME MAINTENANCE COUNTY 14-211
WELFARE DEPARTMENT STAFF ATTENDING IN-SERVICE TRAINING

.1 The following costs for income maintenance CWD staff or volunteers attending in-service training shall be subject to eligible for reimbursement as staff development costs. Active cases may be used for training purposes, however, the responsibility for authorizing public assistance or services may shall not be delegated to staff whose salaries are funded from charged to staff development funds.

.11 For CWD training for AFDC-FS and U and AFDC-FG, initial in-service induction training of at least one week.

~~++~~ Salaries, and fringe benefits.

~~++~~ Travel and per diem for initial in-service training of at least one week for newly-appointed or reassigned staff;

.12 For CWD training of five or more consecutive days away from the trainee's work site.

~~++~~ Travel and per diem for CWD training sessions away from the trainee's work site or for institutes, seminars or workshops related to the job which are sponsored by professional organizations.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 272.4(d)(1)(i); 7 CFR 277 Appendix A(A)(26); 45 CFR 96.30; 45 CFR 235.64; and 45 CFR 1356.60.

Amend Section 14-212 (Title); amend and renumber Section 14-212 (Introductory paragraph) to Section 14-212.1; repeal Sections 14-212.1, .2, .3, .4, and .5; and adopt Sections 14-212.11, .12, .13, and .14 to read:

14-212 ALLOWABLE COSTS FOR INCOME MAINTENANCE COUNTY WELFARE 14-212
DEPARTMENT STAFF ATTENDING OUT-SERVICE TRAINING

- .1 The following costs for income maintenance CWD staff attending out-service training, including training directly related to the job and sponsored by professional organizations, shall be subject to eligible for reimbursement as Staff Development costs. Long-term out-service training for Food Stamp Program staff is allowable when specifically authorized by SDSS.
- *1 For full-time training of eight or more consecutive work weeks during which the trainee shall not be assigned any agency duties:
 - *11 Salaries and benefits or stipends
 - *12 Travel
 - *13 Educational costs
 - .11 Salaries and fringe benefits, stipends, dependency allowance, educational costs, and travel for full-time training of eight or more consecutive work weeks;
 - *2 For full-time training of at least four weeks but less than eight consecutive work weeks during which the trainee shall not be assigned any agency duties:
 - *21 Salaries and benefits
 - *22 Travel
 - *23 Educational costs
 - .12 Salaries and fringe benefits, travel, and educational costs for full-time training of at least four weeks but less than eight consecutive weeks;
 - *3 For full-time training of from five consecutive work days to four weeks during which the trainee shall not be assigned any agency duties:
 - *31 Travel and per diem

*32 Educational costs.

.13 Travel, per diem, and educational costs for full-time training of less than four consecutive work weeks or part-time training;

*4 For training of less than five consecutive work days (part of a work week or evenings or mornings):

*41 Educational costs.

.14 Stipends, travel, and educational costs for persons preparing for employment with the CWD.

*5 For pre-employment training:

*51 Stipends.

*52 Travel.

*53 Educational costs.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 272.4(d)(1)(i); 7 CFR 277 Appendix A(A)(26); 45 CFR 96.30; 45 CFR 235.64; and 45 CFR 1356.60.

Amend Section 14-213 (Title) and renumber (Introductory paragraph) to Section 14-213.1; amend Section 14-213.1, .11, .13 and .14; and adopt Sections 14-213.12, .15, and .16 to read:

14-213 COSTS NOT UNALLOWABLE 14-213
AS INCOME MAINTENANCE TRAINING EXPENSES
STAFF DEVELOPMENT COSTS

- .1 Costs including but not limited to those listed below, shall not be eligible for reimbursement claimed as a staff development expenses cost, but may shall be claimed within the county's allotment as a regular county administrative expenses.
- .11 Salaries and benefits of supervisors engaged in day-to-day supervision;
- .12 Salaries and benefits of CWD staff in continuing training;
- .213 Salaries and benefits of students hired on a temporary basis, such as for the summer interns;
- .314 All costs for Attendance by CWD staff at meetings or conferences of professional organizations;
- .15 Training for foster parents;
- .16 Training for non-CWD or contracted service provider personnel.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 7 CFR 277 Appendix A(A)(26); 45 CFR 235.63 and .65; and 45 CFR 1356.60(c)(5).

Repeal Section 14-214.

14-214 ALLOWABLE COSTS FOR SOCIAL SERVICES STAFF
ATTENDING TRAINING

14-214

The following costs for GWD Social Services staff attending either in-service or out-service training shall be subject to reimbursement as Staff Development costs:

- 1 For full-time training of eight or more consecutive weeks:
 - 11 For in-service training during which the trainee shall not be assigned any agency duties:
 - 111 Salaries and benefits.
 - 112 Travel.
 - 113 Educational costs.
 - 12 For out-service training, including employees on educational leave during which the trainee shall not be assigned any agency duties, except those duties performed as part of a college or university required field work curriculum:
 - 121 Salaries and benefits or stipend.
 - 122 Travel.
 - 123 Educational costs.
- 2 For training of at least five consecutive work days but less than eight consecutive weeks:
 - 21 Travel and per diem.
 - 22 Educational costs.
- 3 For training of less than five consecutive work days (part of a work week, or evenings or mornings):
 - 31 Educational costs.
- 4 For pre-employment training:
 - 41 Stipends.
 - 42 Travel.

43 Educational costs

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10553, Welfare and Institutions Code.

Repeal Section 14-215.

14-215 COSTS NOT ALLOWABLE AS SOCIAL SERVICES STAFF DEVELOPMENT COSTS 14-215

Costs including but not limited to those listed below shall not be subject to reimbursement as Staff Development expenses, but may be claimed within the county's allotment as administrative expenses:

- 1 Salaries and benefits of newly employed Social Services staff of the EWD while they are in orientation.
- 2 Salaries and benefits of supervisors engaged in day-to-day supervision.
- 3 Salaries and benefits of students hired on a temporary basis, such as for the summer.
- 4 Attendance at meetings or conferences of professional organizations.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10553, Welfare and Institutions Code.

Repeal Section 14-220.

14-220 CONDITIONS FOR REIMBURSEMENT FOR TITLE XX
 PROVIDER AGENCY TRAINING

14-220

Funding is available under Title XX for the costs of training provider agency direct service providers, provided all of the following conditions are met:

- 1 A purchase of services contract for social services, which includes such training, is in effect in accordance with Division 10.
- 2 The training provided the service agency's direct service providers is directly related to the provision of the services.
- 3 The personnel must participate in the provision of services under the contract for a period of time at least equal to the time spent in training.
- 4 The costs of such training are not included in the costs of services purchased from the provider agency.

Authority Cited: Sections 10553 and 10554, Welfare and
 Institutions Code.

Reference: 45 CFR 96.30.

Repeal Section 14-221.

14-221 ALLOWABLE COSTS OF THE TITLE XX PROVIDER AGENCY TRAINING UNIT 14-221

The following costs connected with the provider agency staff development activity shall be subject to reimbursement provided the conditions listed in Section 14-220 are met:

- *1 Salaries and benefits, travel and per diem for training staff providing Title XX-related training.
- *2 Salaries and benefits, travel and per diem of experts hired from outside the provider agency to develop or conduct special training programs.
- *3 Costs and training supplies, purchase or development of training materials, books, and audiovisual equipment and aids.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 96.30.

Repeal Section 14-222.

~~14-222~~ ALLOWABLE COSTS OF TITLE XX PROVIDER AGENCY DIRECT ~~14-222~~
SERVICE PROVIDERS ATTENDING TRAINING

The following costs connected with the provider agency direct service providers attending training shall be subject to reimbursement provided the conditions listed in Section ~~14-220~~ are met:

*1 For full-time training of eight or more consecutive work weeks during which the trainee shall not be assigned any provider agency duties:

*11 Travel:

*12 Educational costs:

*2 For full-time training of at least five consecutive work days but less than eight consecutive work weeks during which the trainee shall not be assigned any provider agency duties:

*21 Travel and per diem:

*22 Educational costs:

*3 For training of less than five consecutive work days (part of a work week or evenings or mornings):

*31 Educational costs:

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: 45 CFR 96.30.

Repeal Section 14-230.

14-230 ALLOWABLE COSTS FOR FOSTER PARENTS ATTENDING TRAINING 14-230

The following costs for training foster parents shall be subject to reimbursement:

1 Travel.

2 Educational costs.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 10553, Welfare and Institutions Code.

Repeal Section 14-231.

14-231 ALLOWABLE COSTS FOR TITLE XX INDIVIDUAL DIRECT SERVICE 14-231
PROVIDERS ATTENDING TRAINING

The following costs for Title XX individual direct service
providers in training shall be subject to reimbursement.

1 Travel.

2 Educational costs.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: 45 CFR 96.30.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In this office of the Secretary of State
of the State of California

OCT 26 1988
At 4:25 o'clock P.M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0928-03

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

10/26/88
Date

FACE SHEET

(See Instructions on Reverse)

RDB #0388-16

100 SEP 26 11 4 20

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
OCT 27 1988

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

Jul S. Mahal

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 9-28-88

FILED

In this office of the Secretary of State
of the State of California

OCT 27 1988

At 4:30 o'clock P.M.

MARCH FONG EU, Secretary of State

By *[Signature]*

Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

63-078

SECTIONS AMENDED:

63-102 (e, h, and t); 63-301.51; 63-402.14; 63-502.141; 63-502.2 (b) and (k); 63-504.11 and 63-801.323

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public: 63-708; 63-102 (t)

63-502.2(b) and 63-504.11

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

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☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

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☐ Fair Political Practices Commission (Include FPPC approval stamp)

☐ Building Standards Commission (Attach approval)

☐ State Fire Marshall (Attach approval)

☒ Department of Finance (Attach properly signed Std. 399)

☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER June 3, 1988 b. DATE OF FINAL AGENCY ACTION September 29, 1988 c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☒ Effective upon filing with the Secretary of State.

c. ☐ Effective on _____ as required or allowed by the following statute(s):

d. ☐ Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

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- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
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- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

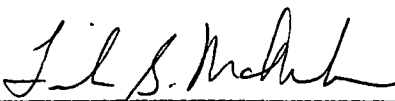
The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on June 1, 1988, and which became effective on June 1, 1988.

Manual of Policies and Procedures, Division 63, Sections:

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-102(g), (h) and (t)	63-078	
63-301.51		
63-402.14		
63-502.141		
63-502.2(b) and (k)		
63-504.11		
63-801.323		

These regulations were presented at public hearing on July 20, 1988. As a result of the public hearing the following sections have been changed.

<u>Amended</u>	<u>Adopted</u>	<u>Repealed</u>
63-078		
63-102(t)		
63-502.2(b)		
63-504.11		



LINDA S. McMAHON
Director

9-28-88
Date

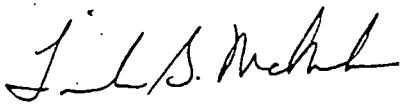
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

Adopt Section 63-078 to read:

63-078 IMPLEMENTATION OF MCKINNEY HOMELESS ASSISTANCE 63-078
REGULATIONS (P.L. 100-77) AND SENIOR COMMUNITY
SERVICE EMPLOYMENT PROGRAM REGULATIONS (P.L. 100-175)

- .1 Sections 63-078, 102(g), ^(h) and ^t (h), 301.51, 402.14, 502.141, 502.2(b), 502.2(k)(5), 504.11, and 801.323, as amended herein, shall become effective June 1, 1988.
- .2 These amended or adopted provisions in Section 63-078 shall be implemented as follows:
- .21 The provisions in Section 63-102(g) which defines "General Assistance," the provisions contained in Sections 63-502.141, 502.2(b)(2)(A), (B), and (C) regarding exclusion of certain PA/GA vendor payments and the provision in Section 63-502.2(b)(3) regarding exclusion of emergency/special PA/GA vendor payments are effective retroactive to April 1, 1987. Affected households shall be entitled to restored benefits back to the date of application or April 1, 1987, whichever occurred later.
- .22 Section 63-502.2(b)(2)(D), the income exclusion of certain PA/GA vendor payments shall be implemented for new applicants who apply for benefits beginning June 1, 1988 and ending September 30, 1989. For continuing cases, this provision is effective retroactively only for allotments issued on or after October 20, 1987. CWDs shall implement the required program changes for their affected current caseload, if otherwise eligible, at recertification, when the household requests a review of its case, or when the CWD otherwise becomes aware that a review is needed.
- .23 Sections 63-402.142(b), .145(b), and 504.112, (the exception to certain household composition requirements and the rule regarding recertification of households subject to the exception) shall be implemented on June 1, 1988. Households who apply for benefits on or after the date this provision is implemented shall be granted separate household status under this provision. Current participants and other persons previously denied benefits who are eligible for separate household status under this provision shall be granted separate household status retroactive to October 1, 1987 as appropriate. Affected households are entitled to restored benefits

back to the date of application or October 1, 1987, whichever occurred later. This determination shall be made upon request from the household, at recertification or when the CWD otherwise becomes aware that a review is needed.

.24 Sections 63-102(h), the definition of homeless individual, 301.51, the expansion of expedited service, and 801.32, the earned income deduction penalty, are to be implemented on June 1, 1988.

.25 Section 63-502(k)(5), the income exclusion of funds received by individuals aged 55 and over provided by the Senior Community Service Employment Program (SCSEP) under Title V of the Older American Act (as amended by Public Law 100-175) shall be implemented as follows:

.251 Beginning June 1, 1988 the CWDs shall implement the adopted provision for all new food stamp applications.

.252 For continuing cases and any other affected households, this provision shall be implemented upon request of the household, at recertification, or when the CWD becomes aware that a review is needed, whichever occurs first. Restored benefits to entitled households are to be provided back to the date of application or October 1, 1987, whichever occurred later.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; 42 USC 3056g (Title V, Older Americans Act as amended by Public Law 100-175); and 7 CFR 277.1(g)(93) and 7 CFR 273.9(c)(10).

Amend Sections 63-102(g) and (h) to read:

63-102 DEFINITIONS (Continued)

63-102

g. (1) "General Assistance (GA)" means cash or another form of assistance, which is excluding in-kind assistance, financed by State or county funds as part of a program which provides assistance to cover living expenses or other basic needs intended to promote the health or well-being of recipients.

(2) (Continued)

h. (1) "Homeless food stamp household individual" means an eligible food stamp household which has no fixed mailing address or does not reside in a permanent dwelling individual who lacks a fixed and regular nighttime residence or an individual whose primary nighttime residence is:

(a) A supervised shelter designed to provide temporary accommodations (such as a congregate shelter or a welfare hotel where an individual is referred by the CWD);

(b) A halfway house or similar institution that provides temporary residence for individuals intended to be institutionalized;

(c) A temporary accommodation in the residence of another individual; or

(d) A place not designed for, nor ordinarily used, as a regular sleeping accommodation for human beings (e.g. a hallway, a bus station, a lobby or similar places).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; and 7 CFR 271.2.

Amend Section 63-102(t) to read:

63-102 DEFINITIONS (Continued)

63-102

- t. (1) "Temporary housing" for the purpose of determining if PA or GA vendor payments for housing assistance should be excluded as income means: time limited residency in a place lacking facilities for preparing and cooking hot meals or for the refrigerated storage of food for home consumption. The residency will be determined to be time limited when the household states that their housing situation is temporary, or when the CWD or the housing unit imposes a time limit.

(12) (Continued)

(23) (Continued)

(34) (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; and 7 CFR 273.9(c)(1)(ii)(D).

Amend Section 63-301.51 to read:

63-301 APPLICATION PROCESSING TIME STANDARDS (Continued) 63-301

.5 Expedited Service (Continued)

.51 Entitlement to Expedited Service

The following households, if otherwise eligible, are entitled to expedited service provided their liquid resources as defined in Section 63-501.11 do not exceed \$100:

- .511 Households with less than \$150 in monthly gross income as defined in Section 63-502.1 or provided their liquid resources as defined in Section 63-501.11 do not exceed \$100;
- .512 Migrant or seasonal farmworker households who are destitute as defined in Section 63-503.43 provided their liquid resources as defined in Section 63-501.11 do not exceed \$100;
- .513 Households in which all members are "homeless individuals" as defined in Section 63-102(h); or
- .514 Households whose combined monthly gross income and liquid resources are less than the household's monthly rent or mortgage, and utilities.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.2(i)(1)(iii and iv).

Amend Section 63-402.14 to read:

63-402 HOUSEHOLD CONCEPT (Continued)

63-402

.1 Household Definition (Continued)

.11 (Continued)

.12 (Continued)

.13 (Continued)

.14 In no event shall ~~§~~Separate household status shall not be granted to:

.141 Children under 18 years of age living with a member of the household who has parental control, as defined in Section 63-102(p);

.142 Parents living with their natural, adopted or step children, or children living with their natural, adopted, or stepparents unless:

(a) at least one parent is elderly or disabled as defined in Section 63-102(e); or

(b) the natural, adopted or stepchild is a parent of a minor child(ren). The parent of the minor child(ren), together with such child(ren), shall be granted separate household status, if he/she is purchasing food and preparing meals for home consumption separate from his/her parents(s). The parent with the minor child(ren) shall be assigned a six-month certification period as specified in Section 63-504.11. The grandparents shall be considered a separate household, if otherwise eligible, even if the parent and minor child(ren) do not participate.

.143 (Continued)

.144 (Continued)

.145 Siblings living with their natural, adopted half-or step brothers and/or sisters, except:

(a) any sibling who is elderly or disabled, as defined in Section 63-102(e), or:

(b) any sibling who is the parent of a minor child(ren). The sibling who is the parent of the minor child(ren), together with such child(ren), shall be granted separate household status, if he/she is purchasing food and preparing meals for home consumption separate from his/her sibling(s). The sibling with a minor child(ren) shall be assigned a six-month certification period as specified in Section 63-504.11. The sibling(s) without a minor child(ren) shall be considered a separate household, if otherwise eligible, even if the sibling and the minor child(ren) do not participate.

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.1(a)(2)(i)(c and d).

Amend Section 63-502.141 to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.14 Unearned income shall include but not be limited to:

.141 Assistance payments from federal or federally aided public assistance programs, Aid to Families with Dependent Children (AFDC), General Assistance (GA), or other assistance programs based on need except as provided in Section 63-502.1311.

(a) Such assistance is considered to be unearned income even if provided in the form of a vendor payment (provided to a third party on behalf of the household), unless the vendor payment is specifically exempt from consideration as countable income as specified in Section 63-502.2.

(ab) (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.9(b)(2)(i).

Amend Sections 63-502.2(b) and (k) to read:

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.2 Income Exclusions (Continued)

(a) (Continued)

(b) (Continued)

(1) (Continued)

(2) A PA or GA payment shall be considered an
excludable vendor payment and not counted as
income to the household if such PA or GA payment
is for:

(A) Medical assistance;

(B) Child care assistance;

(C) Energy assistance [as defined in Section
63-501.3(k)(7)]; or

(D) Housing assistance payments made to a third
party on behalf of a household residing in
temporary housing (see Section 63-102(t))
which lacks facilities for the preparation
and cooking of hot meals or the
refrigerated storage of food for home
consumption. Such vendor payments shall be
excluded under this provision if paid to
the housing provider during the period
beginning October 20, 1987 and ending
September 30, 1989.

(23) (Continued)

(34) (Continued)

(c) through (j) (Continued)

(k) Any income that is specifically excluded by any other federal statute from consideration as income for the purpose of determining eligibility for the Food Stamp Program. The following is the current listing of income excluded by federal statute:

(1) (Continued)

- (2) (Continued)
- (3) (Continued)
- (4) (Continued)
- (5) Funds received by individuals age 55 and over provided by the Senior Community Service Employment Program (SCSEP) under Title V of the Older Americans Act (as amended by Public Law 100-175).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code; 42 USC 3056q (Title V, Older Americans Act as amended by Public Law 100-175); and 7 CFR 273.9(c)(1)(ii)(A-D) and 7 CFR 273.9(c)(10).

Amend Section 63-504.11 to read:

63-504 HOUSEHOLD CERTIFICATION AND CONTINUING ELIGIBILITY 63-504
(Continued)

.1 Certification Periods (Continued)

.11 General Requirements for Establishing Certification
Periods (Continued)

.111 Certification periods shall conform to calendar or fiscal months, except that for initial applications where benefits are prorated, the beginning date of the certification period shall be the date the application was filed in the appropriate food stamp office. At initial application, the first month in the certification period shall generally be the month of application, even if the household's eligibility is not determined until a subsequent month. For timely reapplications and recertifications, the certification period shall begin with the month following the last month of the previous certification period.

.112 Households which consist of an individual and that individual's minor child(ren) living with the individual's parent or sibling and purchasing and preparing meals separately from the parent/sibling [See Sections 63.402.142(b) and .145(b)] shall be assigned a six-month certification period. This six-month certification requirement applies only to those households that consist of an individual and that individual's minor child(ren).

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.10(f)(2).

Amend Section 63-801.323 to read:

63-801 CLAIMS AGAINST HOUSEHOLDS (Continued)

63-801

.3 Intentional Program Violation Claims (Continued)

.323 When determining the amount of benefits the household should have received, the CWD shall not apply the 20 percent earned income deduction to that portion of earned income which the household intentionally failed to report as proven by an administrative disqualification hearing or a court of appropriate jurisdiction. This provision shall not apply to persons who have signed the Waiver of Right to an Administrative Disqualification Hearing or Disqualification Consent Agreement.

.3234 (Continued)

Authority Cited: Sections 10553 and 18904, Welfare and Institutions Code.

Reference: Sections 18901 and 18902, Welfare and Institutions Code and 7 CFR 273.18(c)(2)(ii).

FILED

In this office of the Secretary of State
of the State of California

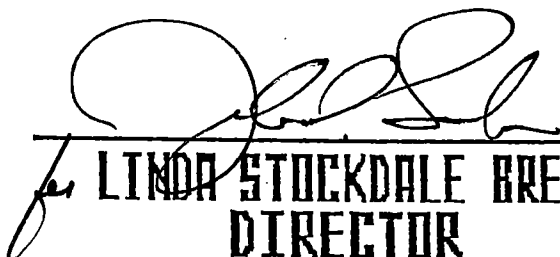
OCT 27 1988
4:50 o'clock
MARCH LING EU, Secretary of State
L. H. Secretary of State

OFFICE OF ADMINISTRATIVE CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0929-03C


for LINDA STOCKDALE BREWER
DIRECTOR

10/27/88
Date

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS

88-001-01
RDB #0186-01
(See Instructions on Reverse)

1030 SEP 27 1988
COMM. &
ADMIN. DIVISION

REGULAR

FILED

In this office of the Secretary of State
of the State of California

ENDORSED
APPROVED FOR FILING
OCT 31 1989

Office of Administrative Law
Office of the Secretary of State

(AGENCY)
L. S. McNeil
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 9/27/88

OCT 31 1988
4:05 o'clock P.M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief Office of Regulations Development 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☒ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED: SEE ATTACHED
SECTIONS AMENDED: SEE ATTACHED
SECTIONS REPEALED: SEE ATTACHED
b. The following sections listed in 3a contain modifications to the text originally made available to the public: SEE ATTACHED
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☐ No ☒ Yes, if yes, give date statement was submitted to OAL September 1, 1984
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
12/4/87
b. DATE OF FINAL AGENCY ACTION
9/27/88
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
7/22/88 to 8/8/88
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

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SECTIONS ADOPTED

46-100; 46-105; 46-110.1,.2; 46-120.13; 46-130.1,.2,.3;
46-140.1,.2,.3,.4,.41,.42,.43,.44,.5,.51,.52,.54,.55,.56,
.6,.61,.64,.65; 46-150; 46-160(a),(d),(g); 46-337.1,.3,.31,
.32,.33,.51,.52; and 46-430.5

SECTIONS AMENDED

46-110.21,.22; 46-120.11,.12; 46-140.62,.63; 46-160(b),(c),
(e),(h),(i),(k); 46-337.21,.23,.25,.4,.41,.42,.43,.6,.61,
.71,.722; 46-430.1,.2,.3, and .4

SECTIONS REPEALED

46-100; 46-105; 46-110; 46-200; 46-205.1,.2,.3,.4,.43,.5;
46-300; 46-325.1,.21,.32,.321,.322,.35,.351,.352,.353,.4,
.5,.51,.52; 46-326.1,.11,.2,.3,.31; 46-337.1,.21,.3,.31,.32,
.4,.511,.512,.53,.6,.61,.62,.621,.622,.623,.7; 46-340; and
46-340.5

SECTIONS CONTAINING MODIFICATIONS

46-120.1,.11,.12; 46-140.11(c),.13(b),.2,.43,.51,.53,.55,
.56,.6,.62,.63,.65; 46-260(h),(k); 46-337.41,.441, and .61

1) Repeal Chapter 46-100 - title and MPP Section 46-105:

~~46-100 GENERAL~~

46-100

~~46-105 GENERAL~~

46-105

- ~~.1 The State Supplemental Program (SSP) shall provide money payments to eligible aged, blind, or disabled California residents.~~
- ~~.2 The Social Security Administration shall determine the eligibility for and amount of entitlement of individuals for Supplemental Security Income (SSI) payments, if any, and the eligibility for and amount of entitlement to SSP payments, pursuant to Title XVI of the Social Security Act; Chapter 1216, Statutes of 1973; and an agreement between the Secretary of Health and Human Services (HHS) and the Department of Social Services.~~
- ~~.21 The combined amount of the entitlements shall be delivered as a single monthly payment to eligible individuals.~~
- ~~.3 Whenever reference is made to AB, AD, or DAS in the department's regulations, that regulation shall be superseded by Division 46 except to the extent that the regulation applies to AFDC or APSB, and except as necessary to determine the continuing eligibility of recipients of public assistance in December 1973 who are continued as eligible recipients beyond December 1973.~~

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 12001, Welfare and Institutions Code;
20 CFR 416.101, 416.401, 416.2015, 416.2020;
Chapter 69, Statutes of 1981.

1) Adopt Handbook Sections 46-100 and 46-105 to read:

CHAPTER 46-100 STATE SUPPLEMENTARY PAYMENT (SSP) PROGRAM

46-105 ADMINISTRATION

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The State Supplementary Payment (SSP) Program provides money payments to eligible aged, blind, or disabled California residents. SSP is administered by the Social Security Administration (SSA) in conjunction with the federal Supplemental Security Income (SSI) Program. Applications for SSI/SSP are taken at SSA field offices. SSA determines the individual's eligibility and grant amount pursuant to Title XVI of the Social Security Act; Welfare and Institutions Code Sections 12000 - 12205 and 13910 - 13922; and an agreement between the Secretary of Health and Human Services (HHS) and the State Department of Social Services (SDSS). The SSI and SSP grant amounts are delivered in a combined monthly check. Members of eligible couples each receive their own SSI/SSP check. SSI/SSP recipients are Medi-Cal eligible and may qualify for the Special Circumstances Program as specified in Section 46-425, and In-Home Supportive Services (IHSS) Program as specified in MPP Section 30-700. Blind recipients may also qualify for the Food for Guide Dogs Program as specified in Section 46-430.

2) Repeal MPP Section 46-110:

~~46-110 RECEPTION AND APPLICATION~~

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- ~~.1 Aged, blind, or disabled individuals shall be required to make application at a local Social Security Administration District Office in order to receive payments.~~
- ~~.2 Eligibility and grant amount will be determined as prescribed by the Social Security Administration in accordance with Title XVI of the Social Security Act.~~
- ~~.3 Aged, blind, or disabled individuals may qualify for the Emergency Loan Program as specified in Section 46-335, or for the Special Circumstances Program as specified in Section 46-425. These programs shall be administered by the county welfare department.~~

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 12001, 12100, 12500, 12550, 12552, Welfare and Institutions Code; 20 CFR 416.101, .105, .301 through .310, .2015, .2020; and Chapter 102, Statutes of 1981.

- 3) Repeal Chapter 46-200, number and title; renumber Section 46-205 to Section 46-110; adopt Handbook Section 46-110.1; repeal Sections 46-205.1, .2, .3, .43, and .5; repeal Section 46-205.4, and renumber and adopt as Handbook Section 46-110.2, renumber Sections 46-205.41 to 46-110.21, 46-205.42 to 46-110.22; and amend to read:

CHAPTER 46-200 ELIGIBILITY STANDARD

46-205110 ELIGIBILITY

46-205110

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- .1 Federal regulations governing eligibility for the SSI Program are set forth in the Code of Federal Regulations, Title 20, Part 416 (20 CFR 416). An individual is eligible for SSP if he/she meets the SSI eligibility requirements, with the exception of certain income requirements as specified in Welfare and Institutions Code Section 12152. An individual may also have countable income in excess of the SSI standard and still be eligible for SSP benefits provided that the countable income is less than the appropriate combined SSI/SSP benefit level specified in Section 46-120.
- .2 An individual shall be eligible for the State Supplemental Program (SSP) if he/she meets the eligibility requirements for receipt of benefits under the SSI Program with the exception of income requirements.
- .3 An individual may have nonexempt income in excess of the SSI standard and still be eligible for SSP benefits provided that his/her nonexempt income is less than the appropriate combined SSI/SSP benefit level specified in Section 46-120.
- .4 The regulations governing the determination of eligibility for the SSI program shall be those beginning with 20 CFR 416.201, as his/her home.
- .42 No period of residency in the state shall be required to gain eligibility.
 - .421 For SSP eligibility purposes, an individual shall cease to reside in the state if he/she leaves the state with the present intent to abandon it as his/her home.
 - .422 In absence of evidence to the contrary, if an individual is physically absent from the state for more than 90 calendar days, this absence shall be considered as

evidence of his/her present intent to abandon this state as his/her home.

43 The county in which the applicant or recipient resides shall be responsible for the administration to that recipient or applicant of emergency loans as specified in Section 46-335, and special circumstance payments as specified in Section 46-425.

45 The regulations governing income and exclusions shall be those set forth in 20 CFR, Part 416.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 12103, 12150, 12152, 12201, and 12552, Welfare and Institutions Code; 20 CFR 416.200 through .259, and 20 CFR 416.1100 through .1182; Chapter 102, Statutes of 1981; and Sections 1616 and 1616(b), Social Security Act.

- 4) Repeal Chapter 46-300, number and title, and Section 46-325.1; renumber Section 46-325 to 46-120, Handbook to Regulation Sections 46-325.11 to 46-120.1, 46-325.111 to 46-120.11, and 46-325.112 to 46-120.12 and amend; delete Handbook Section 46-325.113; and adopt Handbook Section 46-120.13 to read:

CHAPTER 46-300 AID PAYMENT

46-325120 BENEFIT LEVELS

46-325120

- 1 The individual or individual and spouse, if any, couple eligible to receive SSP payments shall receive an amount which, when added to his/her or their SSI benefit, if any, and income less allowable disregards, if any, will equal the amount specified for his/her or their situation in Welfare and Institutions Code Sections 12200, 12201, 13920, 13921 and 13922.

- 11 Effective January 1, 1987, SSI/SSP "monthly benefit levels" established in accordance with Welfare and Institutions Code Sections 12200, 12201, 12201.5, 12205, 13911, 13920, 13921, and 13922 are as follows:

•111 ELIGIBLE INDIVIDUAL BENEFIT LEVEL

<u>Aged or Disabled</u>	<u>\$ 560.00</u>
<u>Aged or Disabled without Cooking and Food Storage Facilities ("Restaurant Meals" Category)</u>	<u>\$ 620.00</u>
<u>Blind</u>	<u>\$ 627.00</u>
<u>Disabled Minor Under 18 Living with Parent</u>	<u>\$ 444.00</u>
<u>Resident of "Nonmedical Out-of-Home Care" (NMOHC) Facility. (This benefit is made up of the components shown below.)</u>	<u>\$ 632.00</u>

<u>For Personal & Incidental Needs of the Recipient</u>	<u>Minimum</u>
	<u>74.00</u>

<u>For Needs Met by the Facility</u>	<u>Maximum</u>
<u>Room and Board</u>	<u>\$ 270.00</u>
<u>Care and Supervision</u>	<u>288.00</u>
	<u>\$ 558.00</u>

•112 ELIGIBLE COUPLE

BENEFIT LEVEL

<u>Both of Whom are Aged or Disabled</u>	<u>\$1039.00</u>
<u>Both of Whom are Aged or Disabled without</u> <u>Cooking and Food Storage Facilities</u> <u>("Restaurant Meals" Category)</u>	<u>\$1160.00</u>
<u>Both of Whom are Blind</u>	<u>\$1221.00</u>
<u>One of Whom is Blind and the Other</u> <u>is Aged or Disabled</u>	<u>\$1152.00</u>
<u>Both of Whom are Residents in a "Nonmedical</u> <u>Out-of-Home Care" (NMOHC) Facility (This</u> <u>benefit level is made up of the components</u> <u>shown below.)</u>	<u>\$1264.00</u>

<u>For Personal & Incidental</u> <u>Needs of the Recipient</u>	<u>Minimum</u> <u>148.00</u>
<u>For Needs Met by the Facility</u>	<u>Maximum</u>
<u>Room and Board</u>	<u>\$ 540.00</u>
<u>Care and Supervision</u>	<u>576.00</u>
	<u>\$1116.00</u>

•113 Resident of Nonmedical "Out-of-Home Care" Facility

	<u>Minimum*</u>	<u>Maximum*</u>
<u>For Personal and Incidental</u> <u>Needs of the Recipients</u>	<u>\$ 66.00</u>	<u>\$117.00</u>
<u>For Needs Met by the Facility</u>	<u>Maximum</u>	<u>Minimum</u>
<u>Room and Board</u>	<u>\$243.00</u>	<u>\$243.00</u>
<u>Care and Supervision</u>	<u>\$269.00</u>	<u>\$209.00</u>
	<u>=====</u>	<u>=====</u>
<u>TOTAL BENEFIT LEVEL</u>	<u>\$569.00</u>	<u>\$569.00</u>

The personal and incidental amount is determined by subtracting the amount charged by the facility for board and room/care and supervision from the

total SSI/SSP grant of \$569. If the recipient's personal and incidental needs are provided for in whole or in part by the facility under an agreement between the recipient and the facility, the recipient may need to use all or a portion of the personal and incidental allowance to pay the facility for these services.

- 13 State law (Welfare and Institutions Code Section 13921) governs the minimum amount of the NMOHC benefit to be kept by the recipient for personal and incidental (P&I) needs. The minimum P&I amount for 1987 is \$74. If the recipient's P&I needs are provided for, in whole or in part, by the facility under an agreement between the recipient and the facility, the recipient pays the facility the agreed upon portion of the P&I allowance. A facility is expressly prohibited by state law (Welfare and Institutions Code Section 11006.9) from obtaining the recipient's P&I money as an additional cost of care.

An SSI/SSP recipient who has no income beyond his/her SSI/SSP grant has a maximum of \$558 available for the cost of his/her board, care and supervision (that is, the \$632 NMOHC benefit, minus the \$74 P&I minimum to be retained by the recipient equals \$558 available to pay the facility.)

A recipient who does have income beyond his/her SSI/SSP grant may have up to an additional \$20 available for his/her cost of care. This is because, under federal rules, the first \$20 of a recipient's income is not counted. Neither federal nor state law restrict the recipient in how this additional income is spent. Therefore, the recipient may be required by the facility to pay this additional amount for the cost of basic services. As a result the maximum that such a recipient may be charged for basic services is \$578.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Sections 11006.9, 12200, 12201, 12201.5, 13911, and 13920 through 13922, Welfare and Institutions Code.

5) Repeal MPP Sections 46-325.5, .51, and .52:

46-325 BENEFIT LEVELS (Continued)

46-325

.5 Exceptions to Benefit Levels

.51 Room and Board is Received In-Kind

When the individual or individual and eligible spouse resides in the home of another and receives both room and board in-kind from the householder, the Benefit Level will be reduced by an amount equal to one-third of the applicable SSI payment standard.

This deduction does not apply when a recipient or applicant is a child (Section 46-205) residing in the home of his/her parents.

.52 Mandatory State Supplementation

A recipient of DAS, ATD, or AR for the month of December 1973 shall receive a minimum state supplementary payment which when added to his/her SSI payment (if any) and net nonexempt income as determined pursuant to December 1973 regulations is equal to the total of such recipient's cash grant and net nonexempt income for December 1973.

If the state supplementary payment determined under this subsection is greater than the amount the recipient would be eligible to receive under Sections 46-325.1, .2, .3, or .4, he/she shall receive the greater amount.

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Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 12200(i) and 12204, Welfare and Institutions Code; 20 CFR 416.1131 and .2050; and Section 1611(g) and (h), Social Security Act, Title XVI.

5) Adopt Handbook Sections 46-130.1, .2, and .3 to read.

46-130 EXCEPTIONS TO BENEFIT LEVELS

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- .1 A recipient's benefit level is reduced by the amount of any countable income he or she has.
 - .2 When a recipient resides in the home of another and receives both room and board in-kind from the householder, the SSI/SSP benefit level will be reduced by one-third of the applicable SSI payment standard. This reduction does not apply when a recipient or applicant is a child residing in the home of his/her parent(s).
 - .3 An SSI/SSP recipient who received benefits for December, 1973, under the former state aid programs of Old Age Security (OAS), Aid to the Blind (AB), or Aid to the Totally Disabled (ATD), will receive "mandatory state supplementation" (MSS) if he/she was converted to SSI/SSP in January, 1974, and if the MSS payment is greater than the SSP amount the recipient would otherwise be eligible for under state and federal law. This MSS payment will, when added to his/her SSI payment (if any) and net countable income as determined under December, 1973, regulations, equal the total of the recipient's cash grant and net countable income for December, 1973.

- 6) Adopt MPP Section 46-140, amend and renumber Section 46-325.2 to 46-140.1, and repeal Section 46-325.21 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC)

46-140

.2.1 "Nonmedical Out-of-home care" (NMOHC) as used in this section shall mean a protective living arrangement outside the SSI/SSP individual recipient's own home where, as a minimum, he/she receives board, room, personal care, and designated supplementary services personal nonmedical care and supervision related to his/her individual needs.

.11 This type of NMOHC care is nonmedical and includes care shall be provided only in: facilities licensed to provide residential care:

(a) a licensed foster care, community care, or residential care facility; or

(b) a nonlicensed private residence of a recipient's relative or legal guardian/conservator, where the need for and the appropriateness of the care has been certified by the county welfare department. A "relative" shall mean a parent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first-cousin, or any such person denoted by the prefix "grand" or "great" (Exceptions to this rule are included in Section 46-140.13);

(c) in a "certified family home" as identified in the Health and Safety Code Section 1506(d).

.12 Recipients' eligibility for the NMOHC payment rate shall apply in the following situations:

.121 Children (under age 18)

(a) Blind children residing in a state licensed NMOHC facility;

(b) Blind children residing in the home of a relative who is not his/her parent or legal guardian/conservator;

(c) Disabled children residing in a state licensed NMOHC facility;

- (d) Disabled children residing in the home of a legal guardian/conservator who is not his/her relative;
- (e) Disabled children residing in the home of a relative who is not his/her parent;
- (f) Blind or disabled children in a "certified family home".

.122 Adults (age 18 and over)

- (a) Aged, blind, or disabled individuals or couples residing in a state licensed NMOHC facility;
- (b) Aged, blind, or disabled individuals or couples residing in the home of a relative or legal guardian/conservator.

.13 Eligibility for the NMOHC payment rate shall not apply in the following situations:

- (a) Disabled children under 18 and living with his/her parent;
- (b) Individuals living in his/her own home;
- (c) Individuals living with a spouse who is not receiving SSI/SSP, regardless of where they live;
- (d) Blind children (under 18, or 18 to 21, and attending school or training full-time) living in the home of his/her parent or guardian.

.21 Certification of recipients to unlicensed homes or other facilities which provide personal care and supervision shall be permitted under any of the following circumstances:

.211 Except as provided in Section .212 below, it is the home of a relative or legally appointed guardian or conservator. A relative for purposes of this section shall mean a parent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first-cousin, or any such person denoted by the prefix "grand" or "great".

v212 The Nonmedical Out-of-Home Care benefit level is not appropriate for

- (a) a disabled minor recipient under 18 living with a parent;
- (b) an individual living in his own home and receiving care from his spouse or;
- (c) a blind child under 18 or 18 to 21 and attending school or training full-time; living in the home of a parent or guardian.

v213 It is an "exclusive use home" approved by a licensed home finding agency as defined in Health and Safety Code Section 1592(a)(4).

- (a) Health and Safety Code Section 1592(a)(4) defines "Homefinding agency" as "any individual or organization engaged in finding homes or other places for placement of persons of any age for temporary or permanent care or adoptions."

NOTE: The Nonmedical Out-of-Home Care benefit level is not appropriate for a disabled minor recipient under 18 living with a parent or relative by blood or marriage (see Section 46-325.1), or for an individual living in his own home and receiving care from his spouse or for a blind child under 18 or 18 to 21 and attending school or training full-time; living in the home of a parent or guardian.

A disabled minor under 18 will receive the nonmedical out-of-home care benefit level if he/she resides with a nonrelative guardian in a certified nonmedical out-of-home care home or facility.

Authority Cited: Sections 10553 and 13911, Welfare and Institutions Code.

Reference:

Sections 1500 through 1502, and 1505, Health and Safety Code; Sections 12200(q), 12201.5, 12202, 13900 through 13902, 13910, 13911, Welfare and Institutions Code; Major v. McMahon Judgment; and Cal. Code of Reg., Title 22, Section 89188.

7) Adopt MPP Sections 46-140.2 (handbook) and 46-140.3 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued) 46-140

.2 With regard to a licensed facility or "certified family home" which provides NMOHC, "care and supervision" is defined in the California Administrative Code, Title 22, Section 80001 as follows:

"Care and supervision" means any one or more of the following activities provided by a person or facility to meet the needs of the clients:

- (a) Assistance in dressing, grooming, bathing, and other personal hygiene;
- (b) Assistance with taking medication, as specified in Section 80075;
- (c) Central storing and/or distribution of medications, as specified in Section 80075;
- (d) Arrangement of and assistance with medical and dental care. This may include transportation;
- (e) Maintenance of house rules for the protection of clients;
- (f) Supervision of client schedules and activities;
- (g) Maintenance and/or supervision of client cash resources;
- (h) Monitoring food intake or special diets;
- (i) Providing basic services as defined in Section 80001(a)(8)."

.3 With regard to a nonlicensed private residence in which NMOHC is being provided, "care and supervision" shall be as set forth in California Administrative Code, Title 22, Section 80001, with the exception of Subsections (e), (d) and (i).

Authority Cited: Sections 10553 and 13911, Welfare and Institutions Code.

Reference:

Sections 12200(q), 12201.5, 12202, 13900 through 13902, 13910, 13911, Welfare and Institutions Code; Major v. McMahon Judgment; and Cal. Code of Reg., Title 22, Sections 80001 and 89188.

8) Repeal MPP Sections 46-325.32, .321, and .322:

46-325 BENEFIT LEVELS (Continued)

46-325

.3 (Continued)

~~.32 Certification of Nonmedical Out-of-Home Care -- Licensed Care Facility~~

~~The Social Security Administration (SSA) District Office will authorize out-of-home care benefit level upon verification that the recipient resides in a licensed facility.~~

~~.321 Each county will establish and maintain a method for informing the local SSA District Office(s) of currently licensed out-of-home care facilities. The method for providing SSA with licensing information must be reported to Adult Program Management Branch, DSS.~~

~~a. The county may provide SSA with a listing of licensed facilities, including address and license number, and update that listing on a regular basis, or~~

~~b. The county may provide SSA with the telephone number of a person or unit in the county responsible for verifying that a facility is licensed, or~~

~~c. The county may use a combination of a. and b. or any method mutually acceptable to the SSA District Office(s) and the CMO.~~

~~.322 The effective date of eligibility for the nonmedical out-of-home care benefit level shall be the first of the month in which the recipient resides in the licensed care facility.~~

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Authority Cited: Sections 10553 and 13911, Welfare and Institutions Code.

Reference: Sections 12201.5, 12202, 13900 thru 13902, 13910, 13911, Welfare and Institutions Code;

and Section 89188, California Code of
Regulations.

- 8) and 9) Adopt MPP Sections 46-140.4, .42, .43, and .44, and Handbook Section 46-140.41 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued) 46-140

.4 Authorization of Nonmedical Out-of-Home Care in Licensed Facility (Except Foster Family Home)

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.41 The SSA field office handling the applicant's case will authorize the NMOHC benefit upon verification that the individual resides in a licensed facility. Each local SSA field office will receive from SDSS a monthly microfiche listing of licensed NMOHC facilities for counties in their service area. (Exception: some foster family homes which have been licensed by the county will not appear on this listing. See Handbook Section 46-140.5 for procedure regarding foster family homes.)

.42 The effective date of NMOHC eligibility for an individual who is residing in a licensed NMOHC facility at the time he or she initially establishes or re-establishes eligibility for SSI/SSP shall be whichever of the following dates is later:

(a) The date of the SSI/SSP application, or

(b) The date all SSI/SSP eligibility requirements are met.

.43 The effective date of NMOHC eligibility for an individual who is already receiving SSI/SSP and who subsequently enters a licensed NMOHC facility shall be the first of the month during any part of which the recipient resides in the licensed facility.

.44 An SSI/SSP recipient who resides in a licensed facility that undergoes a change of ownership shall continue to receive the NMOHC benefit level during the facility's "pending" license status provided the facility continues to meet all licensing standards and remains at the same location. An SSI/SSP recipient who becomes a resident of such a facility during the period the license is pending shall receive the "independent living" benefit level until a permanent license is issued. When the permanent license is issued, the recipient shall receive the NMOHC benefit level retroactively to the date of entry into the facility.

Authority Cited: Sections 10553, 10554, 11000 and 13911, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11000, 12004, 12200(g), 12201.5, 12202, 13900 through 13902, 13910, 13911, Welfare and Institutions Code; Section 1611(c), Social Security Act, Title XVI, and 20 CFR 416.501.

10) Adopt Handbook Sections 46-140.5, .51 and .52, and MPP Section 46-140.53 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued) 46-140

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|.5 Certification of Nonmedical Out-of-Home Care in a Foster Family Home or certified family home.

.51 The SSA field office handling the applicant's case will authorize the NMOHC benefit upon verification that the individual resides in a foster family home or a certified family home. SSA will either obtain the verification from the monthly microfiche listing of licensed NMOHC facilities, or from SDSS Community Care Licensing Division, or will send a request for certification to the CWD on the prescribed certification form.

.52 The county is not required to certify that the child placed in a certified family home or foster family home needs NMOHC. By definition (California Administrative Code, Title 22, Sections 87001, 89185, and 89189) such homes provide twenty-four (24) hour nonmedical care and supervision of foster children.

.53 Upon request by SSA, the county shall verify the child's placement in the certified family home or foster family home on the prescribed certification form.

Authority Cited: Sections 10553, 10554, and 13911, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 13900, 13901, 13902, 13910, and 13911, Welfare and Institutions Code.

11) Adopt MPP Sections 46-140.54, .55, and .56 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued) 46-140

.5 (Continued)

.54 The county shall complete and return the certification form within thirteen (13) working days. This turnaround time begins the day the county receives the certification form and ends the day the county forwards the completed form to the local SSA field office. The county shall maintain controls to meet this time frame.

.55 The effective date of NMOHC eligibility for a child residing in a certified family home or foster family home at the time he or she initially establishes or re-establishes eligibility for SSI/SSP shall be whichever of the following dates is later:

(a) the date of the SSI/SSP application, or

(b) the date all SSI/SSP eligibility requirements are met.

.56 The effective date of NMOHC eligibility for a child who is already receiving SSI/SSP and who subsequently enters a certified family home or foster family home shall be the first of the month during any part of which the recipient resides in the home.

Authority Cited: Sections 10553, 10554, and 13911, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 12200(g), 12201.5, 12202, 13900 through 13902, 13910, and 13911, Welfare and Institutions Code; Section 1611(c), Social Security Act, Title XVI; and 20 CFR 416.501.

- 12) Adopt Handbook Sections 46-140.6 and 46-140.61; repeal Sections 46-325.35, .351, .352, and .353; amend and renumber Sections 46-325.351(a) and (b) to Sections 46-140.62 and .63 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued) 46-140

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.6 Certification of Nonmedical Out-of-Home Care in the Home of a Relative or Legal Guardian/Conservator

- .61 The SSA field office handling the applicant's case will authorize the NMOHC benefit upon receipt of the CWD's certification that the individual needs NMOHC and is receiving it in the home of a relative or legal guardian/conservator. The SSA field office will send a request for certification of NMOHC to the CWD on the prescribed certification form.

.35 Certification of Nonmedical Out-of-Home Care -- Home or Facility Authorized Under Section 46-325.311

When a recipient residing in a home or facility authorized under Section 46-325.311 requests the nonmedical board and care benefit level, the certification will proceed as follows:

- .251 The SSA District Office will send a request for certification of out-of-home care to the CWD on the prescribed authorization form for new applicants or when a change in living arrangements takes place.

- a-.62 The county shall apply the criteria outlined in the Title XX Service Plan for determining the need for out-of-home-care. NMOHC certifies that the recipient needs NMOHC in order to remain in a noninstitutional setting, and will shall verify certify that the appropriate care is being provided in that living arrangement. When the county learns that a DDH Department of Developmental Services (DDS) Regional Center or Continuing Care Services Section social worker is providing services to the applicant or recipient, the county may contact the DDH Regional Center worker and base the certification upon the worker's knowledge of the case.

- b-.63 The county shall complete the authorization certification form within thirteen (13) working days. This "turnaround time" begins the date on which day the

county receives the authorization certification form and ends the day the county forwards the completed form to the local SSA district field office. The county shall maintain controls to meet this time standard frame.

352 When the county determines that the out-of-home care benefit level is appropriate, the payment change will be effective the first of the month in which the county is asked (date of the authorization form) to certify the nonmedical out-of-home care living arrangement, unless the county has material evidence that the individual needed and was receiving care in the living arrangement continuously from an earlier date. The county will enter the effective date on the authorization form.

353 It is the recipient's responsibility to inform the local SSA District Office of any changes in living arrangement. The county shall assist the recipient in reporting such changes to the appropriate SSA District Office when the county becomes aware of such changes. The county shall not initiate the authorization form.

Authority Cited: Sections 10553, 10554, and 13911, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 12200(q), 12201.5, 12202, 13900 through 13902, 13910, and 13911, Welfare and Institutions Code.

13) Adopt MPP Sections 46-140.64 and .65 to read:

46-140 NONMEDICAL OUT-OF-HOME CARE (NMOHC) (Continued) 46-140

.6 (Continued)

.64 The effective date of NMOHC eligibility for an individual who is receiving such care in the home of a relative or legal guardian/conservator at the time he or she initially establishes or re-establishes eligibility for SSI/SSP shall be whichever of the following dates is later:

(a) the date of the SSI/SSP application, or

(b) the date all SSI/SSP eligibility requirements are met.

.65 The effective date of NMOHC eligibility for an individual who is already receiving SSI/SSP and who subsequently begins receiving NMOHC in the home of a relative or legal guardian/conservator shall be the first of the month in which the county is asked to certify the NMOHC living arrangement. Exception: If the county has material evidence that the individual needed and was receiving care in the living arrangement continuously from an earlier date, NMOHC eligibility may extend back to the month in which the care began or three (3) months from the month the county is asked to certify the NMOHC living arrangement, whichever is later.

The county shall attempt to obtain material evidence of the date on which the care began. If the county cannot obtain sufficient material evidence, the county shall have the recipient indicate the onset date of the care and sign the "Client Statement for Retroactive Certifications" on the reverse side of the prescribed certification form. The county shall then enter the effective date in the appropriate space on the front of the prescribed form.

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.651 Examples: A recipient moves from his own home on September 23 to his aunt's home because he needs care and supervision. He notifies SSA of the change in living arrangement on September 25. On September 26 SSA asks the county to certify that the recipient needs and is receiving care and supervision in the aunt's home. The county

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certifies NMOHC on October 3 and so notifies SSA. The recipient's NMOHC payment is made retroactive to September 1.

A recipient moves into his brother's house on May 5 in order to receive care and supervision. He does not report this move to SSA until September 13. On September 14 SSA asks the county to certify that the recipient needs and is receiving care and supervision in his brother's home. The recipient provides the county with material evidence that he has been receiving care and supervision there since May 5. The county certifies NMOHC eligibility back to June 1.

Authority Cited: Sections 10553, 10554 and 13911, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 11200, 12200(d), 12201.5, 13900 through 13902, 13910, and 13911, Welfare and Institutions Code; Section 1611(c), Social Security Act, Title XVI; and 20 CFR 416.531, 708 and .714.

14) Adopt Handbook Section 46-150; and repeal Section 46-325.4 to read:

46-150 RECIPIENTS IN MEDI-CAL (TITLE XIX-FUNDED) FACILITIES 46-150

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The SSI/SSP benefit for a recipient living in a medical facility and receiving more than 50 percent of the cost of his/her care from Medi-Cal is \$35 a month. This amount is to cover the personal and incidental needs of the recipient, and includes a \$25 SSI payment and a \$10 SSP payment.

4 Medi-Cal Patients -- Out of Home

In the case of an eligible individual who resides in a medical facility and whose medical expenses are paid for under the Medi-Cal Act, the benefit level is \$25 a month to cover personal and incidental needs not furnished by the facility.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 12200(h), Welfare and Institutions Code, and 20 CFR 416.414.

- 15) Renumber MPP Section 46-326 to 46-160, adopt Handbook Sections 46-160(a), (d), and (g); repeal MPP Sections 46-326.1, .11, .2, .3, and .31; renumber Handbook Section 46-326.111 to 46-160(a)(1); renumber and amend MPP Sections 46-326.112, .113, .12, .4 et seq., .5, and .7 to 46-160(b), (c), (e), (h) et seq., (i), and (k); and renumber MPP Sections 46-326.21, .6, and .8 to 46-160(f), (j), and (l), respectively, to read:

46-326160 ALLOWANCE FOR RESTAURANT MEALS

46-326160

†† General

†† An aged or disabled recipient or couple, both of whom are aged or disabled, whose living arrangement prevents the preparation of meals are entitled to an allowance for restaurant meals, as specified in Welfare and Institutions Code Sections 12200~~(et)~~ in addition to any other payments for which they are eligible.

- (a) An aged or disabled recipient or couple, both of whom are aged or disabled, whose living arrangement prevents the preparation of meals are entitled to an allowance for restaurant meals, in addition to any other payments for which they are eligible.

†††(1) The following restaurant meals allowances, established in accordance with Welfare and Institutions Code Sections 12200, 12201, and 12205 apply effective January 1, 1987:

Allowance for an Individual	Allowance for a Couple
\$ 60.00 per month	\$121.00 per month

†††2(b) "Living arrangements" shall include the recipient's immediate living quarters as well as other areas in the building in which the recipient's living quarters are located or areas adjacent to these living quarters to which the recipient has access for use of the cooking and food storage facilities.

†††3(c) Cooking and food storage facilities shall be considered accessible if the recipient or someone preparing meals on behalf of the recipient is allowed to use facilities within the living arrangement, whether owned by the recipient or by another, to prepare any of the recipient's meals. Cooking and food storage facilities shall not be required to be part

of the immediate living quarters in order to be considered accessible.

*12 There is another program under which an aged or disabled recipient may qualify for a comparable meal allowance even when the living arrangement does not prevent home meal preparation. If the recipient's disabilities prevent home meal preparation. Application for benefits based on a need due to disability rather than lack of meal preparation facilities should be made to the CWD under the In-Home Supportive Services (IHSS) Program. No recipient shall receive benefits under both programs at the same time.

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(d) There is another program under which an aged or disabled recipient may qualify for a comparable meals allowance even when the living arrangement does not prevent home meal preparation. If the recipient's disabilities prevent home meal preparation. Application for benefits based on a need due to disability rather than lack of meal preparation facilities should be made to the CWD under the In-Home Supportive Services (IHSS) Program.

(e) No recipient shall receive SSP and IHSS meals allowance benefits at the same time.

*2 Application Process

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*21(f) Recipients who wish to apply for the Restaurant Meals Allowance shall file their application at the local SSA field office.

*3 Administration of Payments

*31 Eligibility for and payment of the RMA to SSI/SSP recipients shall be administered by the Social Security Administration according to criteria established by SSSS as stated in these regulations.

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(g) Eligibility for, and payment of the Restaurant Meals Allowance to SSI/SSP recipients is administered by the Social Security Administration according to criteria established by SSSS as stated in these regulations.

*4(h) Eligibility Requirements

An aged or disabled recipient of SSI/SSP or a recipient couple, both of whom are aged or disabled, can shall qualify for the Restaurant Meals Allowance by meeting the following requirements:

41(1) Meals and adequate cooking and food storage facilities are not provided as part of the living arrangement. This requirement is not met when:

41(A) The recipient's immediate living quarters have adequate cooking and food storage facilities in which the recipient or another person who undertakes the responsibility of preparing meals on behalf of the recipient can prepare meals for the recipient on a daily basis.

42(B) The recipient has access to adequate cooking and food storage facilities as part of his/her arrangement (but which are outside of his/her immediate living quarters) for the purpose of preparing any of his/her meals or having them prepared on his/her behalf on a daily basis. The recipient has access to adequate cooking and food storage facilities as part of his/her living arrangement when:

a1. The recipient lives in a boarding house with a communal kitchen with adequate cooking and food storage facilities to which he/she has access for preparation for his/her meals.

b2. The recipient lives with friends or relatives in private living quarters in the same house or in separate living quarters as "over the garage" or in similar situations and has access to the cooking and food storage facilities in the main residence for preparation of any of his/her meals.

43(C) The recipient lives in a room and board living arrangement in which the recipient contracts with the facility to have meals prepared and provided as part of the room and board living arrangement.

This regulation is intended to encompass conventional room and board situations in which the recipient purchases his/her meals through the facility on a periodic basis (generally monthly), or on a per meal basis. This regulation would apply whether or not the agreement between the recipient and the facility is separate from the agreement for rental or private living quarters. The regulation is also applicable where the

facility contracts with a food preparation service which is separate from the facility to provide the meals.

- 42(2) Cooking and/or food storage facilities are inadequate for the preparation of the recipient's meals in the living arrangement. For purposes of determining whether cooking and food storage facilities are adequate, the following items are to be considered to be basic requirements:

42(A) Adequate Food Storage Facilities

An icebox or refrigerator to which the recipient has access. Capacity of the refrigerator or icebox is not a factor of consideration. An ice chest is not considered adequate storage.

42(B) Adequate Cooking Facilities

- a1. A stove without a working oven but which has at least two working burners, or
- a2. A hot plate with at least two burners with separate temperature controls, or two one-burner hot plates with temperature controls, or
- a3. A stove with a working oven or a functioning micro-wave oven in combination with at least one working burner on a stove or a one-burner hot plate with a temperature control. Hot plates without temperature controls which are used for warming food are not considered adequate cooking facilities.

- 42(3) Eligibility for the ~~RMA~~ Restaurant Meals Allowance exists even if meals which are not prepared as part of a recipient's living arrangement are brought into the recipient's living arrangement (i.e., "Meals on Wheels" Program) or are able to be obtained at a discount.

5(i) Minimum Period of Temporary Eligibility

~~Individuals~~ or ~~couples~~ Recipients who must purchase restaurant meals because of the lack, loss or nonfunctioning of their cooking or food storage facilities ~~may~~ shall qualify for the ~~Restaurant~~ ~~Meals~~ ~~Allowance~~ if the temporary condition is expected to last one full calendar month or

more. The applicant shall be notified of his/her ~~responsibility~~ responsibility to report to SSA immediately when he/she knows the condition will cease to exist.

•6(j) Determination of Eligibility

The recipient's statement of fact on the application form shall be acceptable proof of eligibility unless the facts as presented are incomplete, unclear, inconsistent or in conflict with other evidence. If the facts so presented are incomplete, unclear, inconsistent, or in conflict with other evidence, SSA will so indicate in the comments section on the final decision on the eligibility of the recipient. In such cases, SSA will not process payment for the Restaurant Meals Allowance before receiving a decision from the state.

•7(k) Beginning Date of Allowance

The beginning date of the Restaurant Meals Allowance shall be the first of the month in which the recipient files an application for this allowance with SSA provided that the recipient is or expects to be without cooking and/or food storage facilities for a calendar month.

•2(l) Redetermination of Eligibility

The recipient's statement of fact on the application form shall be completed at the time of redetermination of eligibility for SSI/SSP or when a living arrangement change is reported, whichever is earlier.

The recipient has a continuing responsibility to report changes in circumstances which would make him/her ineligible for the Restaurant Meals Allowance.

Authority Cited: Section 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 12100(d), 12200(e), 12201, and 12303.7, Welfare and Institutions Code; 20 CFR 416.310, .501, and .2015, ; Committee of the Rights of the Disabled v. Swap, 48 CA 3d 505; and Section 1611(c), Social Security Act, Title XVI.

- 16) Repeal MPP Section 46-337.1, amend and adopt Handbook Section 46-337.1 to read:

46-337 INTERIM ASSISTANCE REIMBURSEMENT

46-337

1. General Statement

Public Law 93-368 provides for reimbursement to the State for a political sub-division thereof) for interim assistance payments made to SSI/SSP applicants whose applications are subsequently approved for SSI/SSP benefits. Individual authorizations must be signed by the applicants or their representatives and forwarded to the local SSA office which accepts or accepted the applicant's SSI/SSP application. Reimbursement will be effected by means of an agreement between the Department of Health, Education and Welfare and the State of California Department of Social Services. This agreement is to be administered by those counties and state agencies which elect to participate.

1. General Statement

Public Law 93-368 provides for reimbursement to the State (or a political subdivision thereof) for interim assistance payments made to SSI/SSP applicants whose applications are subsequently approved for SSI/SSP benefits. Individual authorizations must be signed by the applicants or their representatives and forwarded either manually or electronically to SSA. Reimbursement will be effected by means of an agreement between the Department of Health and Human Services and the State of California Department of Social Services and sub-agreements between SDSS and participating agencies.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: Section 1631(g) of Title XVI of the Social Security Act, 20 CFR 416.1901 et seq..

17) Amend Sections 46-337.21, .23, and .25 to read:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued)

46-337

.2 Definitions

For the purposes of these regulations

- .21 Agreement means the contract between H&W DHS and the State Department of Social Services which outlines the terms under which reimbursement may be made.
- .22 Applicant means an individual or the representative of such individual who has applied for SSI/SSP benefits and who cannot meet his/her basic needs in the period between the application and receipt of his/her benefits upon determination of eligibility.
- .23 Individual Authorization is the form which is to be signed by the individual applicant to or for whom interim assistance is paid, authorizing payment of the initial SSI/SSP check to the county or state authorizes payment of an individual's initial SSI/SSP check to the county or state participating agency which has paid interim assistance. The form must be signed by the applicant or his/her designated representative.
- .24 Interim Assistance means any assistance from state or county funds furnished to meet basic needs during the period for which such individual was eligible for SSI/SSP benefits, beginning with the month of application and ending with the receipt of the initial payment.
- .25 Initial Payment means the amount of SSI/SSP benefits, including retroactive amounts, determined to be payable to an eligible individual (including retroactive amounts, if any) at the time such an individual is first determined to be eligible, but does not include any advance emergency payment or payment based upon presumptive disability or presumptive blindness made by SSA.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: 20 CFR 416.1901 et seq.

- 19) Repeal MPP Sections 46-337.3, .31, .32, and .33; and adopt Handbook Sections 46-337.3, .31, .32, and .33 to read:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued) 46-337

3 Responsibility of State Department of Social Services

- 31 Conduct all negotiations with HSN.
- 32 Prepare and enter into a contract with state and county agencies which elect to implement the interim assistance program.
- 33 Take appropriate administrative actions to insure that participating state and county agencies carry out the provisions in the contracts. Failure to follow such provisions as stated in Section 46-337.4 below shall result in removal from the list of participating counties. If in each of three consecutive months a county agency fails in more than five percent (5%) of its interim assistance cases to comply with the ten-day processing requirement of Section 46-337.62, such failure shall be deemed to be a failure to follow these regulations and the agency shall be removed from the list of participating county agencies.

3 Responsibility of State Department of Social Services (SDSS)

- 31 Conduct all negotiations with DHHS.
- 32 Prepare and enter into a contract with state agencies and County Boards of Supervisors which elect to implement the Interim Assistance Program.
- 33 Take appropriate administrative actions to ensure that participating state and county agencies carry out the provisions in the contracts.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: 20 CFR 416.1901 et seq.

- 19) Amend MPP Sections 46-337.4, .41, .42, and .43; repeal 46-337.44; add Sections 46-337.44, .441, .442, .443, .444, .46, .47, and .48; and adopt as Handbook Section 46-337.47 to read:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued) 46-337

.4 Responsibilities of Participating ~~County~~ Agencies

Participation in the program to receive reimbursement for interim assistance shall be the option of the agency. All agencies which elect to participate shall:

- .41 Implement the interim assistance program in compliance with the terms of the contract with SDSS.
- .42 Draft and implement procedures for carrying out the provisions of these regulations. In no event are procedures to be implemented prior to signing of the contract between SDSS and the state agency or the county board of supervisors.
- .43 Obtain individual authorizations as described in Section 46-337.23 from applicants for SSI/SSP to whom interim assistance is paid from participating county agency funds. Agencies which use the manual IAR process shall forward the authorization to the local SSA office which accepts or accepted the applicant's SSI/SSP application. Agencies which use the automated IAR process shall notify SSA pursuant to the approved contract between the agency and SDSS. An individual authorization remains in effect until SSA has made a final determination on an individual case. If an application for SSI/SSP benefits is denied, the denial is the final determination unless he/she files a timely appeal with SSA. If this is done a new authorization is not needed. If the applicant files a new application rather than an appeal, a new authorization is required if the county agency is to be reimbursed for interim assistance monies advanced.
- .44 ~~Comply with the reporting requirements as outlined in Section 46-337.2.~~

Upon receipt of an initial SSI/SSP payment, by the county deduct the amount of interim assistance ~~shall be deducted~~ and send the remainder ~~shall be sent~~ to the recipient or his/her representative payee as expeditiously as possible but in any event no later than

ten (10) working days after from receipt of the initial payment by the county participating agency.

Example: If the initial payment is received on Wednesday, October 14th, the tenth day would be Tuesday, October 27.

Under current SSA policy, initial SSI/SSP entitlements which exceed \$5,000 are divided and \$9,999.99 will be issued in multiple checks. SSA ~~technically~~ considers the sum of these multiple payments as the actual initial payment.

In such cases, monies from the subsequent SSI/SSP checks received by the county participating agency may be withheld if the county participating agency was unable to recover all interim assistance amounts, to which it is entitled, from the first initial payment. Participating agencies shall process such multiple payments in the same manner as they would initial SSI/SSP entitlements that SSA disburses in one check.

.441 If, by the tenth working day from the day of receipt of an initial payment the state or county participating agency has not determined the amount of interim assistance for which reimbursement can be claimed, or has failed to forward the remittance (if any) to the recipient or his/her representative payee, the state or county participating agency which received the initial payment shall send to the recipient the full amount of the initial payment. When the county participating agency has forwarded the remittance within the 10 day requirement, occurrences such as mail delays or discovery of remittance calculation errors shall not constitute the basis for the recipient's entitlement to the full amount of the initial payment.

If, in each of three consecutive months, an agency fails in more than five percent (5%) of its interim assistance cases to comply with the ten-day processing requirement of Section 46-337.44, such failure shall cause the cancellation of the IAR agreement between the SDSS and the participating agency.

.442 The remittance to the recipient shall be accompanied by A notice of action (form SSP-17) shall be sent to the recipient or his/her

representative payee showing the amount received by the State or county participating agency, the amount deducted as reimbursement for interim assistance and the amount being sent to the recipient or his/her representative payee, if any. The notice of action shall also include the right of the recipient to request a fair state hearing.

.443 When an individual dies after completing an individual authorization form but before receiving the explanation and remittance referred to above, the agency shall within prescribed time limit, provide such explanation and pay the balance due the recipient to the local SSA district field office rather than to the recipient or anyone else on his behalf. Such payment shall be sent by registered mail and a return receipt requested.

.444 If, after offsetting the interim assistance paid to the individual, the agency is unable to locate the individual and deliver the remaining SSI/SSP grant within 60 days, the agency shall forward the remainder to SSA for disbursements.

.45 Maintain adequate records of all transactions relating to interim assistance made and the apportionment of the individual's initial payment.

.45 Each county shall submit Report to SDSS the Department of Social Services no later than twenty calendar days after the last working day of the previous each month, a report on Form A29 217 provided by Department of Social Services, showing for such month, the total amount of interim assistance paid, and the processing time for forwarding the remittance to the recipients. The report shall be made on the form prescribed by SDSS.

Interim Assistance Reimbursement (IAR) reports are to be received in Sacramento on or before the 8th working day of the month following the report month. One copy shall be sent to:

State Department of Social Services
Statistical Services Branch
744 "P" Street, MS 19-81
Sacramento, CA 95814

When all data is not available, a report shall be transmitted by the due date containing all information that is available at that time. An explanation should

be attached for any delay indicating when the Department will receive the completed report. The missing data shall be transmitted as soon as it is available.

In addition to reporting to the State, each participating county agency shall account for all interim assistance initial payment dispositions on an individual case basis by way of federal form SSA-8125 (Supplemental Security Income Notice of Interim Assistance Reimbursement Eligibility and Accountability Report) which is to be received with the individual initial payment. The disposition of the initial payment check received is to be reported via the federal form SSA-8125 within thirty (30) working days from the date of receipt of the check and or the SSA-8125, whichever is later, by the county agency. The completed SSA-8125 is to be sent to the attention of:

Assistant Regional Commissioner
Bureau of Supplemental Security Income
Social Security Administration
Assistance Programs Section
IAR Coordinator
100 Van Ness Avenue, 26th Floor
San Francisco, CA 94102

In conjunction with the SSA-8125 reporting, participating agencies are required to provide the California State Department of Social Services with "certifications of authority" which specify the title of the agency official who is authorized to sign the SSA-8125. This title, as well as the signature of the individual currently acting in that capacity, should appear on all copies of the SSA-8125s forwarded to the SSA Regional Office in San Francisco. SSA-8125s received by the Regional Office that do not have such signature validation will be returned to the agency for proper completion.

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- .47 Referrals may be made by the SSA field office to the participating agency, or from the participating agency to the SSA District Office.
 - .48 Failure to follow the provisions of Sections 45-337.41 through .46 shall cause the cancellation of the IAR agreement between the SDSS and the participating agency.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: 20 CFR 416.1901 et seq.

20) Repeal Section 46-337.511, .512, and .513; amend Sections 46-337.51 and .52 and adopt as Handbook to read as follows:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued) 46-337

.5 Eligibility Requirements for Reimbursement

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.51 Reimbursement will be made only for state and county funds paid to applicants. Interim Assistance does not include assistance payments financed wholly or partly with federal funds.

.511 County General Assistance or General Relief

.512 Nonfederal AFDC-BHI

.513 Department of Mental Health's Office of Continuing Care. This program applies only to state funds paid by DMH for placement of mentally disabled clients.

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.52 The period for which reimbursement will be made extends from the first of the month in which the SSI/SSP application is made if the applicant was eligible in that month through and including the month when SSI/SSP payments begin, providing an individual authorization was signed before the initial payment was issued.

If the agency has already prepared, and cannot stop delivery of the next assistance payment when it receives the initial payment from SSA, the amount of the next payment is also reimbursable interim assistance.

.53 Monies paid from state or county funds will not be reimbursed if:

.531 The applicant is determined to be ineligible for SSI/SSP benefits by SSA.

.532 The authorization was received by the SSA office after eligibility has been approved and action taken by SSA to issue the initial payment to the applicant.

Authority Cited: Section 10553, Welfare and Institutions Code.

Reference: 20 CFR 416.1901 et seq.

21) Repeal Sections 46-337.6, .61, .62, .621, .622, and .623:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued)

46-337

.6 Procedures

In no event are procedures to be implemented prior to signing of the contract between DSS and the state or county agency.

.61 Referrals may be made by the SSA District Office to the CWD, or from the CWD to the SSA District Office.

.62 Upon receipt of an initial SSI/SSP payment by the county, the amount of interim assistance shall be deducted and the remainder shall be sent to the recipient as expeditiously as possible but in any event no later than ten (10) working days after receipt of the initial payment by the county.

Under current SSA policy, initial SSI/SSP entitlements which exceed \$5,000 are divided and issued in multiple checks. SSA technically considers the sum of these multiple payments as the actual initial payment. In such cases, monies from the subsequent SSI/SSP checks received by the county may be withheld if the county was unable to recover all interim assistance amounts, to which it is entitled, from the first payment. Participating agencies shall process such multiple payments in the same manner as they would initial SSI/SSP entitlements that SSA disburses in one check.

.621 If, by the tenth working day from the day of receipt of an initial payment the state or county has not determined the amount of interim assistance for which reimbursement can be claimed, or has failed to forward the remittance to the recipient, the state or county agency which received the initial payment shall send to the recipient the full amount of the initial payment. When the county has forwarded the remittance within the 10-day requirement, occurrences such as mail delays or discovery of remittance calculation errors shall not constitute the basis for the recipient's entitlement to the full amount of the initial payment.

.622 The remittance to the recipient shall be accompanied by a notice of action (form SSP-17) showing the amount received by the State or

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county, the amount deducted as reimbursement for interim assistance and the amount being sent to the recipient. The notice of action shall also include the right of the recipient to request a fair hearing.

.623 When an individual dies after completing an individual authorization form but before receiving the explanation and remittance referred to above, the agency shall within the prescribed time limit, provide such explanation and pay the balance due the recipient to the local SSA District Office rather than to the recipient or anyone else on his behalf. Such payment shall be sent by registered mail and a return receipt requested.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

22) Repeal Section 46-337.7:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued)

46-337

.7 Reporting

Each county shall submit to Department of Social Services no later than twenty calendar days after the last working day of the previous month, a report, on Form ASD 217 provided by Department of Social Services, showing for such month the total amount of interim assistance paid, and the processing time for forwarding the remittance to recipients.

In addition to reporting to the State, each participating county agency shall account for all interim assistance initial payment dispositions on an individual case basis by way of federal form SSA-8125 which is to be received with the individual initial payment. The disposition of the initial payment check received is to be reported via the federal form SSA-8125 within thirty (30) working days from the date of receipt of the check and the SSA-8125 by the county agency. The completed SSA-8125 is to be sent to the attention of:

Assistant Regional Commissioner
Bureau of Supplemental Security Income
Social Security Administration
100 Van Ness Avenue
San Francisco, CA 94102

In conjunction with the SSA-8125 reporting, participating county agencies are required to provide the California State Department of Social Services with "certificates of authority" which specify the title of the county official that is authorized to sign the SSA-8125. This title, as well as the signature of the individual currently acting in that capacity, should appear on all copies of the SSA-8125s forwarded to the SSA Regional Office in San Francisco. SSA-8125s received by the Regional Office, that do not have such signature validation, will be returned to the county agency for proper completion.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference:

Sections 10553 and 10554, Welfare and
Institutions Code.

- 23) Renumber MPP Sections 46-337.8, .81, .9, .91, .92, .921, .922, and .10 to .6, .61, .7, .71, .72, .721, .722, and .8 respectively, and amend Sections 46-337.6, .61, .71, and .722 to read:

46-337 INTERIM ASSISTANCE REIMBURSEMENT (Continued) 46-337

.86 Fair State Hearing

Fair State hearings requested by the recipient shall follow the procedures as set forth in Division 22 of the Manual of Policies and Procedures.

- .861 Fair State hearings shall be conducted by SOSS Department of Social Services only when the issue is (a) the apportionment of the initial payment received by the state or county or (b) that the state or county participating agency has failed to comply with the requirements of Section 46-337.62+44. An appeal based on the amount of initial payment shall be directed to SSA.

.97 Confidentiality

- .971 Procedures for maintaining confidentiality of general interim assistance payments shall comply with the regulations of the individual county participating agencies.

- .972 All information concerning SSI/SSP applicants'/recipients' identity and the amount of grant shall be confidential.

- .9721 Confidentiality shall be maintained unless the written consent of the applicant/recipient has been obtained, except

- .9722 The information may be shared with government agencies concerned with the administration of the Title XVI programs when it is necessary for such administration.

- .100 No administrative costs incurred by the county in implementing this program will be reimbursed by the state or the federal government.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 10553 and 10554, Welfare and
Institutions Code.

24) Repeal MPP Section 46-340:

44-340 OVERPAYMENTS AND UNDERPAYMENTS

46-340

The Federal Social Security Administration shall establish the procedures and be responsible for collecting any overpayments from and adjusting any underpayments to recipients which might occur under either the SSI or SSP Programs and make reports to the State Department of Benefit Payments.

The County welfare department shall adjust overpayments or underpayments resulting from administration of Sections 46-330 and 46-425 in accordance with the provisions of Sections 44-329 through 44-335 of the EAS Manual.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

25) Amend MPP Section 46-430.1 to read:

46-430 SPECIAL NEED - FOOD FOR GUIDE DOGS

46-430

.1 Eligibility

Blind recipients of Supplemental Security Income/State Supplementary Payments Program (SSI/SSP) for Aged, Blind, and Disabled benefits and/or In-Home Supportive Services (IHSS) who own have a guide dog are shall be eligible for this special need allowance to purchase food for the their guide dog. A guide dog is a dog trained by a recognized professional guide dog trainer and used for use in guiding a blind person in his or her daily activities. For purposes of this section, an individual is considered blind as defined in Section 1614(a)(2) of Title XVI of the Social Security Act.

Authority Cited: Sections 10553, 10554, 12500, and 12553, Welfare and Institutions Code.

Reference: Sections 12500 and 12553, Welfare and Institutions Code; and Section 1614(a)(2), Title XVI of the Social Security Act.

26) Amend MPP Section 46-430.2 to read:

46-430 SPECIAL NEED - FOOD FOR GUIDE DOGS (Continued) 46-430

.2 Application

The Department will send application Form SC 1 to blind recipients of benefits under the SSI/SSP Program as identified by the Social Security Administration.

.21 Blind Eligible SSI/SSP and IHSS recipients who have a guide dog ~~may~~ shall apply on Form SC 1 for an dog food allowance for dog feed of \$30 a month. Application ~~should~~ shall be made on Form SC 1 to the State Department of Benefit Payments Social Services (SDBPSS), 744 P Street, Sacramento, CA 95814.

.22 The Department will approve or deny every formal application and notify the applicant of the action no more than 30 days after the date of application is received.

Authority Cited: Sections 10553, 10554, and 12553, Welfare and Institutions Code.

Reference: Sections 12500 and 12553, Welfare and Institutions Code.

27) Amend MPP Section 46-430.3 to read:

46-430 SPECIAL NEED - FOOD FOR GUIDE DOGS (Continued) 46-430

.3 Payments

Payments will be made at the end of the month in arrears for that month.

The eligibility of qualified applicants whose applications for this allowance are received before February 1, 1975, may be established for the months prior to February 1975, but not earlier than the month of October 1974.

Payments to qualified applicants whose applications for this allowance are received after January 31, 1975, will be effective in shall be eligible for payment from the first day of the month in which the application is received. SARP must approve or deny every application and notify the applicant of the action not more than 30 days after the date the application is received. Payments shall be made at the end of the month, in the arrears for that month.

Authority Cited: Sections 10553, 10554, and 12553, Welfare and Institutions Code.

Reference: Section 10553, 10554, and 12553, Welfare and Institutions Code.

28) Amend MPP Section 46-430.4 to read:

46-430 SPECIAL NEED - FOOD FOR GUIDE DOGS (Continued) 46-430

.4 Redeterminations

Eligibility for this allowance shall be redetermined at least once every ~~six~~ twelve months. Each recipient ~~will~~ shall be required to ~~promptly~~ complete and ~~submit a~~ return the redetermination Form SC 1a as ~~requested by~~ to SDAPSS within 30 days.

Each recipient is required to promptly notify SDAPSS if he/~~er~~ she ceases to be a ~~blind~~ recipient of ~~SSP~~ blind benefits under SSI/SSP, a blind recipient of IHSS, or no longer ~~possesses~~ has a guide dog.

Authority Cited: Sections 10553, 10554, and 12553, Welfare and Institutions Code.

Reference: Sections 10554 and 12553, Welfare and Institutions Code.

29) Repeal MPP Section 46-430.5 and adopt as Handbook to read:

46-430 SPECIAL NEED - FOOD FOR GUIDE DOGS

46-430

5 County Responsibility

The county welfare department will assist the recipient in completing his/her application for the special allowance when requested to do so.

5 County Responsibility

The county welfare department will assist the recipient in completing his/her application for the special allowance when necessary to do so.

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Authority Cited: Sections 10553, 10554, and 12553, Welfare and Institutions Code.

Reference: Sections 10554 and 12553, Welfare and Institutions Code.

OCT 31 1988
AK 12 o'clock P.M.
MARCH FORN ET, Secretary of State
By [Signature]
Deputy Secretary of State

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-0929-01

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

10/31/88
Date

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

1988 OCT -7 PM 4:27
OFFICE OF
ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

J. L. S. McNeil

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 10-6-88

FILED
In this office of the Secretary of State
of the State of California

NOV 03 1988
At 4:35 o'clock P.M.
MARCH FONG EU, Secretary of State
By *Andrea Liberman*
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING

NOV 03 1988

Office of Administrative Law

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED:
SECTIONS AMENDED: 44-206.1
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPCC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER June 3, 1988
b. DATE OF FINAL AGENCY ACTION October 6, 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) NONE
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on as required or allowed by the following statute(s):
d. ☐ Effective on (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1.** Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2.** Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a.** Provide the Administrative Code Title in which the regulation will appear and list *section number of each regulation to be amended, adopted or repealed. When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b.** Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4.** Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5.** Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6.** OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7.** Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- a. Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - b. Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - c. Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a.** Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b.** Provide the date on which the regulatory agency adopted the regulatory changes.
- c.** If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9.** Effective Dates — check one of the following:
- a. A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - b. An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - c. If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - d. If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - e. If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- *Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- *A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- *Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend Section 44-206 to read:

44-206 PERSONS WHO MUST BE EXCLUDED FROM
THE ASSISTANCE UNIT (AU)

44-206

- .1 The following persons shall be excluded from the assistance unit (even if it would be appropriate to include them under Sections 44-205.4 or .5):

(a) A person who receives SSI/SSP, ~~RRP~~ RDP, RCA, or AFDC-FC, or In-Home Support Services.

(eb)(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11209, Welfare and Institutions Code, ~~and the Judgement and Order Based on Stipulation in Portis v. McMahon, No. 304861, Superior Court of California, Contra Costa County.~~

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED

In this office of the Secretary of State
of the State of California

NOV 03 1988

At 4:35 o'clock P. M.


MARCH FONG EU, Secretary of State

By Andrew J. Wapner
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-1007-09


LINDA STOCKDALE BREWER
DIRECTOR

11-3-88
Date

FACE SHEET

RDB #0688-23
(See Instructions on Reverse)

88-1019-02R

1988 OCT 19 PM 12:58

OFFICE OF
ADMINISTRATIVE LAW
ENDORSED

APPROVED FOR

NOV 17 1988

Office of Administrative Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

L. S. Mohl

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 10-18-88

FILED

In this office of the Secretary of State
of the State of California

NOV 17 1988

At 4:25 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Isella Cruz*
Deputy Secretary of State

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☒ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

SECTIONS AMENDED:

SEE ATTACHED PAGE

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☐ No ☒ Yes, if yes, give date(s) of prior submittal(s) to OAL: 88-0613-01N

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPPC approval stamp)

☐ Building Standards Commission (Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

NA

October 18, 1988

NA

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☐ Effective 30th day after filing with the Secretary of State.

b. ☒ Effective upon filing with the Secretary of State.

c. ☐ Effective on _____ as required or allowed by the following statute(s):

d. ☐ Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)

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- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
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- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
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 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
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- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

87100, 87101, 87102, 87104, 87106, 87108, 87110, 87112, 87114,
87116, 87118, 87120, 87122, 87124, 87126, 87128, 87130, 87132,
87134, 87136, 87137, 87138, 87140, 87142, 87144, 87200, 87202,
87204, 87206, 87208, 87300, 87302, 87304, 87306, 87308, 87310,
87311, 87400, 87402, 87404, 87406, 87408, 87410, 87412, 87414,
87416, 87418, 87420, 87422, 87424, 87502, 87504, 87506, 87508,
87509, 87510, 87512, 87514, 87516, 87518, 87520, 87522, 87600,
87602, 87604, 87606, 87608, 87610, 87612, 87614, 87700, 87702,
87704, 87706, 87708, 87710, 87712, 87714, 87716, 87718, and
87720.

CHAPTER 8. RESIDENTIAL FACILITIES FOR THE ELDERLY

Article 1. Definitions

87101 -87100: Definitions.

(a) For purposes of this chapter the following definitions shall apply:

(1) Administrator. "Administrator" means the individual designated by the licensee to act in behalf of the licensee in the overall management of the facility. The licensee, if an individual, and the administrator may be one and the same person.

(2) Adult. "Adult" means a person who is eighteen (18) years of age or older.

(3) Ambulatory Person. "Ambulatory Person" means a person who is capable of demonstrating the mental competence and physical ability to leave a building without assistance of any other person or without the use of any mechanical aid in case of an emergency.

(4) Applicant. "Applicant" means any individual, firm, partnership, association, corporation or county who has made application for a license.

(5) Basic Rate. "Basic Rate" means the SSI/SSP established rate, which does not include that amount allocated for the recipient's personal and incidental needs.

(6) Basic Services. "Basic Services" means those services required to be provided by the facility in order to obtain and maintain a license and include, in such combinations as may meet the needs of the residents and be applicable to the type of facility to be operated, the following: safe and healthful living accommodations; personal assistance and care; observation and supervision; planned activities; food service; and arrangements for obtaining incidental medical and dental care.

(7) Capacity. "Capacity" means that maximum number of persons authorized to be provided services at any one time in any licensed facility.

(8) Care and Supervision. "Care and Supervision" means those activities which if provided shall require the facility to be licensed. It involves assistance as needed with activities of daily living and the assumption of varying degrees of responsibility for the safety and well-being of residents. "Care and Supervision" shall include, but not be limited to, any one or more of the following activities provided by a person or facility to meet the needs of the residents:

(A) Assistance in dressing, grooming, bathing and other personal hygiene;

(B) Assistance with taking medication, as specified in Section 87610, § 7575

(C) Central storing and distribution of medications, as specified in Section 87610, § 7575

(D) Arrangement of and assistance with medical and dental care. This may include transportation, as specified in Section 87610, § 7575

(E) Maintenance of house rules for the protection of residents;

(F) Supervision of resident schedules and activities;

(G) Maintenance and supervision of resident monies or property;

(H) Monitoring food intake or special diets.

(9) Community Care Facility. "Community Care Facility" means any facility, place or building providing nonmedical care and supervision, as defined in Section 87000(a)(8).

(10) Conservator. "Conservator" means a person appointed by the Superior Court pursuant to the provisions of Section 1800 *et seq.* of the Probate Code to care for the person, or person and estate, of another.

(11) Consultant. "Consultant" means a person professionally qualified by training and experience to provide expert information on a particular subject.

(12) Deficiency. "Deficiency" means any failure to comply with any provision of the ~~Community~~ ^{Residential} Care Facilities Act and regulations adopted by the Department pursuant to the Act. *for the Elderly*

(13) Department. "Department" is defined in Health and Safety Code, Section ~~1502(b)~~. *1569.2 (b)*

(14) Dietician. "Dietician" means a person who is eligible for registration by the American Dietetic Association.

(15) Director. "Director" is defined in Health and Safety Code, Section ~~1502(c)~~. *1569.2 (c)*

(16) Documentation. "Documentation" means written supportive information including but not limited to the Licensing Report (Form LIC 809).

(17) Elderly Person. "Elderly Person" means, for purposes of admission into a Residential Facility for the Elderly, a person who is sixty-two (62) years of age or older. *CAAR*

(18) Evaluator. "Evaluator" means any person who is a duly authorized officer, employee or agent of the Department including any officer, employee or agent of a county or other public agency authorized by contract to license community care facilities.

(19) Exception. "Exception" means a variance to a specific regulation based on the unique needs or circumstances of a specific resident or staff person. Requests for exceptions are made to the licensing agency by an applicant or licensee. They may be granted for a particular facility, resident or staff person, but cannot be transferred or applied to other individuals.

(20) Existing Facility. "Existing Facility" means any facility operating under a valid unexpired license on the date of application for a new or renewal license.

(21) Guardian. "Guardian" means a person appointed by the Superior Court pursuant to the provisions of Section 1500 *et seq* of the Probate Code to care for the person, or person and estate, of another.

(22) Home Economist. "Home Economist" means a person who holds a baccalaureate or higher degree in home economics and who specialized in either food and nutrition or dietetics.

(23) Immediate Need. "Immediate Need" means a situation where prohibiting the operation of the facility would be detrimental to a resident's physical health, mental health, safety, or welfare. Examples of immediate need include but are not limited to:

(A) A change in facility location when residents are in need of services from the same operator at the new location;

(B) A change of facility ownership when residents are in need of services from the new operator.

(24) License. "License" is defined in Health and Safety Code Section ~~1502~~. *1569.2 (f)*

(25) Licensee. "Licensee" means the individual, firm, partnership, corporation, association or county having the authority and responsibility for the operation of a licensed facility.

(26) Licensing Agency. "Licensing Agency" means a state, county or other public agency authorized by the Department to assume specified licensing, approval or consultation responsibilities pursuant to Section ~~1511~~ *1569.13* of the Health and Safety Code.

(27) Life Care Contract. "Life Care Contract" is defined in Health and Safety Code, Section 1771 ~~(x)~~ ^(m)

(28) New Facility. "New Facility" means any facility applying for an initial license whether newly constructed or previously existing for some other purpose.

(29) Nonambulatory Person. "Nonambulatory Person" means a person who is unable to leave a building unassisted under emergency conditions. It includes, but is not limited to, those persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. It also includes persons who are unable, or likely to be unable, to respond physically or mentally to an oral instruction relating to fire danger and, unassisted, take appropriate action relating to such danger.

(30) Nutritionist. "Nutritionist" means a person holding a master's degree in food and nutrition, dietetics, or public health nutrition, or who is employed by a county health department in the latter capacity.

(31) Physician. "Physician" means a person licensed as a physician and surgeon by the California Board of Medical Examiners or by the California Board of Osteopathic Examiners.

(32) Provision or Provide. Whenever any regulation specifies that provision be made for or that there be provided any service, personnel or other requirement, it means that if the resident is not capable of doing so himself, the licensee shall do so directly or present evidence satisfactory to the licensing agency of the particular arrangement by which another provider in the community will do so.

(33) Provisional License. "Provisional License" means a temporary, non-renewable license, issued for a period not to exceed twelve months which is issued in accordance with the criteria specified in Section 87412. ←

87231

(34) Relative. "Relative" means spouse, parent, stepparent, son, daughter, brother, sister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any such person denoted by the prefix "grand" or "great", or the spouse of any of the persons specified in this definition, even if the marriage has been terminated by death or dissolution.

(35) Residential Facility for the Elderly. "Residential Facility for the Elderly" means a housing arrangement chosen voluntarily by the residents, or the resident's guardian, conservator or other responsible person; where 75 percent of the residents are at least sixty-two years of age, or, if younger, have needs compatible with other residents as specified in Section 87702, and where varying levels of care and supervision are provided, as agreed to at time of admission or as determined necessary at subsequent times of reappraisal.

87582

(36) Responsible Person. "Responsible Person" means that individual or individuals, including a guardian, conservator, or relative, who assist the resident in placement or assume varying degrees of responsibility for the resident's well-being. This includes the County Welfare Department, Adult Protective Services Unit, when no other responsible person can be found.

(37) Room and Board. "Room and Board" means a living arrangement where care and supervision is neither provided nor available.

(38) Serious Deficiency. "Serious deficiency" means any deficiency that presents an immediate or substantial threat to the physical health, mental health, or safety of the residents or clients of a community care facility.

(39) "Shall" means mandatory. "May" means permissive.

(40) Singular-Plural. Whenever in these regulations the singular is used, it can include the plural.

(41) Social Worker. "Social Worker" means a person who has a graduate degree from an accredited school of social work or who has equivalent qualifications as determined by the Department.

(42) SSI/SSP. "SSI/SSP" means the Supplemental Security Income/State Supplemental Program.

(43) Substantial Compliance. "Substantial Compliance" means the absence of any deficiencies which would threaten the physical health, mental health, safety or welfare of the residents. Such deficiencies include, but are not limited to, those deficiencies referred to in Section 87300 and the presence of any uncorrected serious deficiencies for which civil penalties could be assessed.

(44) Voluntary. "Voluntary" means resulting from free will.

(45) Waiver. "Waiver" means a variance to a specific regulation based on a facility-wide need or circumstance which is not typically tied to a specific resident or staff person. Requests for waivers are made to the licensing agency, in advance, by an applicant or licensee.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1530, 1569.1, .2, .5, .10, .145, .15, .157, .17, .19, .20, .21, .30, .312, .44, .47, .82, Health and Safety Code. 1569.30

HISTORY:

1. New Chapter 8 (Articles 1-8, Sections 87000-87720, not consecutive) filed 3-2-82; designated effective 7-1-82 (Register 82, No. 10). For history of former Chapter 8, see Registers 82, No. 5 and 81, No. 44.

2. Editorial correction of HISTORY No. 1 filed 4-12-82 (Register 82, No. 15).

3. Renumbering of former Section 87000 to Section 87100, and redesignation of Section 87000 to Chapter 7.5 filed 10-7-83; designated effective 1-1-84 (Register 83, No. 42).

Article 2. License

§ 87100 87101. ~~Specific Exemption~~ GENERAL

The provisions of Chapter 1, Division 6, shall not apply to the provisions of Chapter 8, Residential Facilities for the Elderly.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1502, Health and Safety Code. 1569.2

HISTORY:

1. Renumbering of former Section 87100 to Section 87101, and redesignation of Section 87100 to Chapter 7.5 filed 10-7-83; designated effective 1-1-84 (Register 83, No. 42).

§ 87105 87102. License Required.

(a) Pursuant to Health and Safety Code, Section 1508, any individual or legal entity providing or intending to provide care and supervision to the elderly in a residential facility shall be licensed pursuant to the provisions of this chapter. This shall not require an adult residential facility to relocate a resident who becomes 67, nor to change licensing category, provided that the resident's needs remain compatible with those of other residents, and the licensing agency has approved an exception request.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1502, 1503 and 1508, Health and Safety Code. 1569.10, .45 and .44

OBTAIN A CURRENT
VALID LICENSE

RDB 0388-11
ATTACHED

RDB 0388-11
ATTACHED

87451

1569.2

1569.45.10

1569.30

FACE SHEET

(See Instructions on Reverse)

RDB #0387-11

1988 JUL 13 AM 4:40

OFFICE OF
ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services
(AGENCY)

John S. Mahan
AGENCY OFFICER WITH RULEMAKING AUTHORITY

For use of Office of Adm Law

Date: 7/15/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

80058; 80059; 87055; 87056; 87456, and 87457

SECTIONS AMENDED:

80001; 80005; 80006; 80018 (c) (17); 80040; 87001; 87005; 87006; 87018; 87040; 87101; 87105; 87106 and 87340

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission
(Include FPPC approval stamp)

☐ Building Standards Commission
(Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))

July 31, 1987

July 18, 1988

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective upon filing with the Secretary of State.

c. ☐ Effective on _____ as required or allowed by the following statute(s):

d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

Amend and renumber Section 87100(a) to read:

87100 DEFINITIONS (Continued)

87100

(a) (Continued)

(44) "Unlicensed Residential Facility for the Elderly"
means a facility as defined in Health and Safety
Code Section 1569.44.

(A) Health and Safety Code Section 1569.44
provides:

A facility shall be deemed to be an
"unlicensed residential facility for the
elderly" and "maintained and operated to
provide residential care" if it is
unlicensed and not exempt from licensure,
and any one of the following conditions is
satisfied:

(1) The facility is providing care and
supervision and services, as defined
by this chapter or the rules and
regulations adopted pursuant to this
chapter.

(2) The facility is held out as, or
represented as, providing care and
supervision and services, as defined
by this chapter or the rules and
regulations adopted pursuant to this
chapter.

(3) The facility accepts or retains
residents who demonstrate the need
for care and supervision and
services, as defined by this chapter
or the rules and regulations adopted
pursuant to this chapter.

(4) The facility represents itself as a
licensed residential facility for the
elderly.

(B) A facility which is "providing care and
supervision" as defined in Section
87100(a)(3) includes, but is not limited

to, one in which individual has been placed by a placement agency or family members.

(C) A facility which is "held out as or represented as providing care and supervision" includes, but is not limited to:

- (1) A facility whose license has been revoked or denied, but the individual continues to provide care for the same or different clients with similar needs.
- (2) A facility where change of ownership has occurred and the same clients are retained.
- (3) A licensed facility that moves to a new location.
- (4) A facility which advertises as providing care and supervision.

(D) A facility which "accepts or retains residents who demonstrate the need for care and supervision" includes, but is not limited to:

- (1) A facility with residents requiring care and supervision, even though the facility is providing board and room only, or board only, or room only.
- (2) A facility where it is apparent that care and supervision are being provided by virtue of the client's needs being met.

(445) (Continued)

(456) (Continued)

Authority Cited: Section 4530 1569.30, Health and Safety Code.

Reference: Sections 4530 1569.1, 1569.2, 1569.5, 1569.10, 1569.145, 1569.15, 1569.157, 1569.17, 1569.19,

1569.20, 1569.21, 1569.30, 1569.312, 1569.44,
1569.47, and 1569.82, Health and Safety Code.

Amend Section 87102 to read:

87102 LICENSE REQUIRED (Continued)

87102

- (a) Pursuant to Health and Safety Code Section ~~154A~~ 1569.10, any individual or legal entity providing or intending to provide care and supervision to the elderly in a residential facility shall ~~be licensed~~ obtain a current valid license pursuant to the provisions of this chapter. This shall not require an adult residential facility to relocate a resident who becomes 620, nor to change licensing category, provided that the resident's needs remain compatible with those of other residents, and the licensing agency has approved an exception request.

Authority Cited: Section ~~153A~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1502, 1503 and 1508~~ 1569.10, 1569.45,
and 1569.44, Health and Safety Code.

87108-87104. Integral Facilities.

(a) Upon written application, the licensing agency may issue a single license to integral facilities conducting multiple, related programs which would otherwise require separate licenses provided all of the following requirements are met:

(1) Separate buildings or portions of the facility shall be integral components of a single program

(2) All components of the program shall be managed by the same licensee

(3) All components of the program shall be conducted at a single site.

NOTE: Authority cited: Section ~~1530~~^{1569.30}, Health and Safety Code. Reference: Section ~~1530~~^{1569.30}, Health and Safety Code.

87106. Operation Without a License.

87101- (a) If an unlicensed facility is providing care and supervision as defined in Section ~~87000~~^{1569.44} (a) (8), the facility is in violation of Section ~~1508~~^{1569.44} of the Health and Safety Code unless the facility is exempted from licensure under Section ~~87400~~^{1569.44}. If the facility is found to be in violation of Section ~~1508~~^{1569.44} of the Health and Safety Code, the licensing agency shall:

(1) Conduct a site visit and evaluation of the facility

(2) Issue an order to discontinue services

(3) Take other action as necessary, including referral for criminal prosecution and/or civil proceedings. In evaluating what other actions should be taken, the health, safety and general welfare of the residents in the unlicensed facility shall be the primary consideration. ^{1569.30}

NOTE: Authority cited: Section ~~1530~~^{1569.44}, Health and Safety Code. Reference: Sections ~~1508~~^{1569.44}, ~~1540~~^{1569.44} and ~~1541~~^{1569.44}, Health and Safety Code.

87113-87108. Transferability.

(a) The license shall not be transferable. The licensee shall notify the licensing agency and the resident receiving services, or the resident's responsible person, in writing as soon as possible and in all cases at least thirty (30) days prior to the effective date that any change in ownership, licensee, type of license or location of the facility is to occur.

(b) In the case of change of ownership or licensee a new application for license shall be submitted by the prospective new licensee.

NOTE: Authority cited: Section ~~1530~~^{1569.30}, Health and Safety Code. Reference: Sections ~~1502~~^{1569.11}, ~~1513~~^{1569.11}, and ~~1520~~^{1569.11}, Health and Safety Code.

87114-87110. Continuation of License Under Emergency Conditions.

The licensing agency may consent to a change of location and continuation of the existing license of any facility for a reasonable period of time when the change is requested because of the accidental destruction of the licensed premises or similar emergency conditions, so long as the new location or place of performance conforms to building, fire and life safety standards.

NOTE: Authority cited: Section ~~1530~~^{1569.30}, Health and Safety Code. Reference: Sections ~~1501~~^{1569.1} and ~~1530~~^{1569.30}, Health and Safety Code.

87112. False Claims.

No licensee, officer or employee of a licensee shall make or disseminate any false or misleading statement regarding the facility or any of the services provided by the facility. ^{1569.30}

NOTE: Authority cited: Section ~~1530~~^{1569.30}, Health and Safety Code. Reference: Section ~~1530~~^{1569.30}, Health and Safety Code.

1569.30

87107(2)

1569.10, 1569.145
1569.40, 1569.405,
1569.41, 1569.42
1569.43, 1569.44
1569.45, 1569.485

1569.11

1569.1 and 1569.30

1569.30 + 1569.44

Amend Section 87106 to read:

87106 OPERATION WITHOUT A LICENSE

87106

- (a) If an unlicensed facility is providing care and supervision as defined in Section 87100(a)(44), the facility is in violation of Section 4503 1569.10, 1569.44, and/or 1569.45 of the Health and Safety Code unless the facility is exempted from licensure under Section 87400. If the facility is found to be in violation of Section 1508 of the Health and Safety Code, the licensing agency shall:

- (1) Conduct a site visit and evaluation of the facility.
- (2) Issue an order to discontinue services.
- (3) Take other action as necessary, including referral for criminal prosecution and/or civil proceedings, in evaluating what other actions should be taken, the health, safety and general welfare of the residents in the unlicensed facility shall be the primary consideration.

- (b) If the facility is alleged to be in violation of Section 1569.10 and/or 1569.44 and/or 1569.45 of the Health and Safety Code, the licensing agency shall conduct a site visit and/or evaluation of the facility pursuant to Health and Safety Code Section 1569.35.

- (1) Health and Safety Code Section 1569.35(c) provides in part:

Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a residential care facility for the elderly, the department shall make a preliminary review and, unless the department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection within 10 days after receiving the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action.

- (c) If the facility is operating without a license, the licensing agency shall issue a Notice of Operation in

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Violation of Law, and shall refer the case for criminal prosecution and/or civil proceedings.

- (d) The licensing agency shall issue an immediate civil penalty pursuant to Section 87310 and 1569.485 of the Health and Safety Code.

- (1) Section 1569.485 of the Health and Safety Code provides in part:

Notwithstanding any other provision of this chapter, any person who violates Section 1569.10 or 1569.44, or both, may be assessed by the department an immediate civil penalty in the amount of two hundred dollars (\$200) per day of violation.

The civil penalty shall be imposed if an unlicensed facility is operated and the operator refuses to seek licensure or the licensure application is denied and the operator continues to operate the unlicensed facility.

- (e) Sections 87105(c) and (d) shall be applied in any combination deemed appropriate by the licensing agency.

- (f) The licensing agency shall notify the appropriate local or state Ombudsman, placement, or adult protective service agency if either of the following conditions exist:

- (1) There is an immediate threat to the residents' health and safety.
- (2) The facility does not submit an application for licensure within 15 calendar days of being served a Notice of Operation in violation of Law.

Authority Cited: Section 1530 1569.30, Health and Safety Code.

Reference: Sections 1508, 1540 and 1541 1569.10, 1569.19, 1569.335, 1569.35, 1569.40, 1569.41, 1569.42, 1569.43, 1569.44, 1569.45, 1569.47, 1569.485, and 1569.495, Health and Safety Code.

87115-87114. Posting of License.

The license shall be posted in a prominent location in the licensed facility accessible to public view. 1569.30

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1530, Health and Safety Code. 1569.30

87342-87116. Revocation or Suspension of License.

(a) Pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2, of the Government Code, the Department may suspend or revoke any license on any of the grounds stipulated in Health and Safety Code, Section 1550. 1569.50

(b) When the Director intends to seek revocation of a license, the Director shall notify the licensee of the proposed action and at the same time shall serve such person with an accusation. The licensee has a right to a hearing prior to the revocation or suspension of a license, except as provided in (c) below.

(c) The Director may temporarily suspend any license prior to any hearing when in the Director's opinion such action is necessary to protect the residents in the facility from any physical or mental abuse or any other substantial threat to health or safety. When the Director intends to temporarily suspend a license prior to a hearing, the Director shall notify the licensee of the temporary suspension and the effective date thereof and at the same time serve the licensee with an accusation.

(d) For either a revocation action or a revocation and temporary suspension action, the Director shall within fifteen (15) days of receipt of notice of defense ask the Office of Administrative Hearings to set the matter for hearing.

(e) For a revocation and temporary suspension action, the Director shall ask the Office of Administrative Hearings to hold the hearing as soon as possible but not later than thirty (30) days after receipt of the Notice of Defense. 1569.50, 1569.51

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1550 and 1551, Health and Safety Code. 1569.52 + 1569.53

87116-87118. Program Flexibility.

(a) The use of alternate concepts, programs, services, procedures, techniques, equipment, space, personnel qualifications or staffing ratios, or the conduct of experimental or demonstration projects shall not be prohibited by these regulations provided that:

(1) Such alternatives shall be carried out with provisions for safe and adequate services.

(2) A written request for a waiver or exception and substantiating evidence supporting the request shall be submitted in advance to the licensing agency by the applicant or licensee.

(3) Prior written approval of the licensing agency shall be received.

(A) In determining the merits of each request, the licensing agency shall use as guidelines the standards utilized or recommended by well-recognized state and national organizations as appropriate.

(B) The licensing agency shall provide written approval or denial.

(b) Unless prior written approval of the licensing agency is received, all community care facilities shall maintain continuous compliance with the licensing regulations. 1569.30

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1530, Health and Safety Code. 1569.30 + 1569.31

TITLE 22

COMMUNITY CARE FACILITIES

§ 87128

(Register 87, No. 47—11-21-87)

(p. 2454.3)

87343 ~~87120~~ Licensee Complaints.

(a) Each licensee shall have the right, without prejudice, to bring to the attention of the Department or the licensing agency, or both, any alleged misapplication or capricious enforcement of regulations by any licensing representative, or any substantial differences in opinion as may occur between the licensee and any licensing representative concerning the proper application of the Community Care Facilities Act or of these regulations.

(b) Where applicable, a review of the complaint shall be conducted in accordance with Section ~~87308~~ ^{1569.30}.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}, Health and Safety Code. Reference: Sections ~~1530~~ ^{1569.30 + 1569.335}, Health and Safety Code.

87117 ~~87122~~ Applicant/Licensee Mailing Address.

The applicant or licensee shall file his/her mailing address, in writing, with the licensing agency and shall notify the agency, in writing, of any change within 10 calendar days. ^{1569.30}

NOTE: Authority cited: Section ~~1530~~ ^{1569.15, 1569.20, 1569.22, 1569.30,} Health and Safety Code. Reference: Sections ~~1501, 1503, 1508, 1513, and 1520~~ ^{1569.51}, Health and Safety Code.

87344 ~~87124~~ Inspection Authority.

(a) Any duly authorized officer, employee or agent of the Department may, upon proper identification and upon stating the purpose of his/her visit, enter and inspect the entire premise of any place providing services at any time, with or without advance notice.

(b) Provisions shall be made for private interviews with any person receiving services or any staff member and for examination of all records relating to the operation of the facility.

(c) The Department shall have the inspection authority as specified in Health and Safety Code Section 1569.24.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.24, 1569.33, 1569.34 and 1569.35, Health and Safety Code.

HISTORY:

1. New subsection (c) filed 11-16-87; operative 12-16-87 (Register 87, No. 47).

87345 ~~87126~~ Evaluation Visit.

(a) Each community care facility shall be evaluated at least once annually.

(b) Any number of other visits may be made to a facility for various purposes as determined necessary by the Department or licensing agency to determine compliance with regulations and applicable standards.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}, Health and Safety Code. Reference: Section ~~1534~~ ^{1569.32, 1569.11, 1569.24, 1569.33, 1569.34}, Health and Safety Code. ^{+ 1569.35}

87118 ~~87128~~ Nondiscrimination.

(a) All licensed facilities shall receive persons on a nondiscriminatory basis according equal treatment and services without regard to race, color, religion, national origin or ancestry.

(b) An exception shall be made in the case of any bona fide nonprofit religious, fraternal or charitable organization which can demonstrate to the satisfaction of the Department or the licensing agency that its primary or substantial purpose is not to evade this section.

(1) It may establish reception policies limiting or giving preference to its own members or adherents, provided, however, such membership is nondiscriminatory and such policies shall not be construed as a violation of this section.

§ 87130
(p. 2454.4)

COMMUNITY CARE FACILITIES

TITLE 22

(Register 87, No. 47—11-21-87)

(2) Any reception of nonmembers or nonadherents shall be subject to the requirements of this section.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Section ~~1530~~, Health and Safety Code.

87223-~~87130~~ Disaster and Mass Casualty Plan.

(a) Each facility shall have a disaster and mass casualty plan of action. The plan shall be in writing and shall be readily available.

(b) The plan shall be subject to review by the licensing agency and shall include:

- (1) Designation of administrative authority and staff assignments.
- (2) Plan for evacuation including:
 - (A) Fire safety plan.
 - (B) Means of exiting.
 - (C) Transportation arrangements.
 - (D) Relocation sites which are equipped to provide safe temporary accommodations for residents.

(E) Supervision of residents during evacuation or relocation and contact after relocation to assure that relocation has been completed as planned.

(F) Means of contacting local agencies such as fire department, law enforcement agencies, civil defense and other disaster authorities.

(c) Emergency exiting plans and telephone numbers shall be posted.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

87574-~~87132~~ Motor Vehicles Used in Transporting Residents.

Only drivers licensed for the type of vehicle operated shall be permitted to transport residents. The rated seating capacity of the vehicles shall not be exceeded. Any vehicle used by the facility to transport residents shall be maintained in a safe operating condition.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

87573-~~87134~~ Telephones.

All facilities shall have telephone service on the premises. Facilities with a capacity of sixteen (16) or more persons shall be listed in the telephone directory under the name of the facility.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

87227-~~87136~~ Capacity.

(a) A license shall be issued for a specific capacity which shall be the maximum number of residents which can be provided care at any given time. The capacity shall be exclusive of any members of the licensee's own family who reside at the facility. However, the licensing agency shall consider the presence of other family members or other persons who reside in the facility in determining capacity in order to ensure and promote proper living arrangements for both the licensee's family and the residents and to ensure the provision of adequate care and supervision for the residents.

(b) The number of persons that the facility is licensed to admit shall be determined on the basis of the application review by the licensing agency which shall consider:

(1) Physical energy and skills of the licensee as it relates to their ability to meet the needs of the residents.

(2) Any other household members who may reside at the facility and their individual needs.

TITLE 22

COMMUNITY CARE FACILITIES

§ 87138

(p. 2454.5)

(Register 87, No. 25—6-20-87)

(3) Physical features of the facility, such as available living space, which are necessary in order to comply with regulations.

(4) Number of available staff to meet the care needs of the residents.

NOTE: Authority cited: Section ~~1500~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

1569.2, 1569.31
+ 1569.312

87110 ~~87137~~ Limitations—Capacity and Ambulatory Status.

(a) A licensee shall not operate a facility beyond the conditions and limitations specified on the license, including specification of the maximum number of persons who may receive services at any one time. An exception may be made in the case of catastrophic emergency when the licensing-agency may make temporary exceptions to the approved capacity.

(b) Resident rooms approved for 24-hour care of ambulatory residents only shall not accommodate nonambulatory residents. Residents whose condition becomes nonambulatory shall not remain in rooms restricted to ambulatory residents.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

1569.30
1569.2, 1569.31, +
1569.312

87227 ~~87138~~ Safeguards for Cash Resources, Personal Property, and Valuables of Residents.

(a) A licensee shall not be required to handle residents' cash resources. However, if a resident incapable of handling his own cash resources, as documented by the initial or subsequent appraisal, is accepted for care, his cash resource shall be safeguarded in accordance with the regulations in this section. Every facility shall take appropriate measures to safeguard residents' cash resources, personal property and valuables which have been entrusted to the licensee or facility staff. The licensee shall give the residents receipts for all such articles or cash resources. Every facility shall account for any cash resources entrusted to the care or control of the licensee or facility staff. Cash resources include but are not limited to monetary gifts, tax credits and/or refunds, earnings from employment or workshops, and personal and incidental need allowances from funding sources such as SSI-SSP.

(b) Except as provided in approved life care contract agreements, no licensee or employee of a facility shall accept appointment as a guardian or conservator of the person and/or estate of any resident; nor accept any general or special power of attorney for any such person; nor become substitute payee for any payments made to any persons; nor become the joint tenant on any bank account with a resident. Cash resources and valuables of residents which are handled by the licensee for safekeeping shall not be commingled with or used as the facility funds or petty cash, and shall be separate, intact and free from any liability the licensee incurs in the use of his own or the facility's funds and valuables. This does not prohibit the licensee from providing advances or loans to residents from facility money. No licensee or employee of a facility shall make expenditures from residents' cash resources for any basic service specified in Article 2.3 of these regulations, or for any basic services identified in a contract/admission agreement between the resident and facility. Each licensee shall maintain adequate safeguards and accurate records of cash resources and valuables entrusted to his care, including, but not limited to the following:

(1) Records of residents' cash resources maintained as a drawing account shall include a ledger accounting (columns for income, disbursements and balance) for each resident, and supporting receipts filed in chronological order. Each accounting shall be kept current.

(A) An acceptable receipt where cash is provided to residents from their respective accounts, includes: the resident's signature or mark, or responsible party's full signature, and a statement acknowledging receipt of the amount and date received. An acceptable form of receipt would include: "(full signature of resident) accepts (dollar amount) (amount written in cursive), this date (date), from (payor)".

(B) An acceptable receipt where purchases are made for the resident, from his account, is the store receipt.

(2) Records of residents' cash resources and other valuables entrusted to the licensee for safekeeping shall include a copy of the receipt furnished to the resident as specified in (a) above or to his responsible person. The receipt provided to the resident for money or valuables entrusted to the licensee shall be original and include the resident's and/or his responsible person's signature.

(3) Bank records for transactions of cash resources deposited in and drawn from the account as specified in (c) below.

(c) Immediately upon admission, residents' cash resources entrusted to the licensee and not kept in the licensed facility shall be deposited in any type of bank, savings and loan or credit union account, which is maintained separate from the personal or business accounts of the licensee, provided that the account title clearly notes that it is residents' money and the resident has access to the money upon demand to the licensee. Such accounts shall be maintained in a local bank, savings and loan or credit union authorized to do business in California, the deposits of which are insured by a branch of the Federal Government; except, however, that a local public agency may deposit such funds with the public treasurer.

(1) Cash resources entrusted to the licensee for residents and kept on the facility premises shall be kept in a locked and secure location.

(d) Upon discharge of a resident, all cash resources, personal property and valuables of that resident which have been entrusted to the licensee shall be surrendered to the resident, or his responsible person. A signed receipt shall be obtained.

(e) Upon the death of a resident, all cash resources, personal property, and valuables of that resident shall immediately be safeguarded.

(1) All cash resources shall be placed in an account as specified in (c) above.

(2) The executor or the administrator of the estate shall be notified by the licensee, and the cash resources, personal property, and valuables surrendered to said party.

(3) If no executor or administrator has been appointed, the responsible person shall be notified, and the cash resources, personal property, and valuables shall be surrendered to said person in exchange for a signed itemized receipt.

(4) If the licensee is unable to notify a responsible party as specified above, immediate written notice of the resident's death shall be given to the public administrator of the county as provided by Section 1145 of the California Probate Code.

(f) Whenever there is a change of licensee.

(1) The licensee shall notify the licensing agency of any pending change of licensee, and shall provide the licensing agency an accounting of all residents' cash resources, personal property and valuables entrusted to his/her care. Such accounting shall be made on a form provided or approved by the Department.

(2) When the licensing agency approves the application for the new licensee, the form specified in (1) above shall be updated, signed by both parties, and forwarded to the licensing agency.

(g) All monetary gifts, and any gift exceeding an estimated value of \$100, which are given to a licensee by or on behalf of a resident shall be recorded. The record shall be attached to the account specified in (b) above. This shall not include monetary gifts or valuables given by the friends or relatives of a deceased resident.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.15, 1569.30, 1569.31, 1569.60 and 1569.61, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

HISTORY:

1. Amendment of subsection (c) (1) filed 6-15-87; operative 7-15-87 (Register 87, No. 25).

87226-87140: Bonding.

(a) Each licensee, other than a county, who is entrusted to safeguard resident cash resources, shall file or have on file with the licensing agency a copy of a bond issued by a surety company to the State of California as principal.

(1) The amount of the bond shall be in accordance with the following schedule:

Total Safeguarded Per Month	Bond Required
\$750 or less	\$1,000
\$751 to \$1,500	\$2,000
\$1,501 to \$2,500	\$3,000

Every further increment of \$1,000 or fraction thereof shall require an additional \$1,000 on the bond.

(b) Whenever the licensing agency determines that the amount of the bond is insufficient to adequately protect the money of residents, or whenever the amount of any bond is impaired by any recovery against the bond, the licensing agency may require the licensee to file an additional bond in such amount as the licensing agency determines to be necessary to adequately protect the residents' money.

(c) Each application for a license or renewal of license shall be accompanied by an affidavit on a form provided by the licensing agency. The affidavit shall state whether the applicant/licensee will be entrusted/is entrusted to safeguard or control cash resources of persons and the maximum amount of money to be handled for all persons in any month.

(d) No licensee shall either handle money of a resident or handle amounts greater than those stated in the affidavit submitted by him or for which his bond is on file without first notifying the licensing agency and filing a new or revised bond as required by the licensing agency.

(e) A written request for a variance from the bonding requirement may be made to the licensing agency. Approval by the licensing agency of a variance shall be in writing. The request shall include a signed statement from the licensee indicating:

(1) That the bonding requirement is so onerous that as a result the facility will cease to operate.

(2) The place of deposit in which the resident's funds are to be held.

(3) That withdrawals will be made only on the authorization of the resident or his responsible person. 1569.30

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1530 and 1569.1, Health and Safety Code.

1569.1, 1569.15
1569.30, 1569.31,
1569.32, 1569.60,
+ 1569.61

~~87142~~ 87225 Commingling of Money.

Money and valuables of residents entrusted to the licensee of one community care facility licensed under a particular license number shall not be commingled with those of another community care facility of a different license number, regardless of joint ownership.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530, 1531, 1560, and 1561, Health and Safety Code.

~~87144~~ 87572 Personal Rights.

(a) Each resident shall have personal rights which include, but are not limited to, the following:

(1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons.

(2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment.

(3) To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination.

(4) To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency.

(5) To have the freedom of attending religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.

(6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents; nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders.

(7) To visit the facility prior to residence along with his/her family and responsible persons.

(8) To have his/her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs.

(9) To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.

(10) To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313.

(11) To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.

(12) To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money.

(13) To have access to individual storage space for private use.

TITLE 22

COMMUNITY CARE FACILITIES

§ 87204

(Register 88, No. 2—1-9-88)

(p. 2454.9)

(14) To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.

(15) To mail and receive unopened correspondence in a prompt manner.

(16) To receive or reject medical care, or other services.

(17) To receive assistance in exercising the right to vote.

(18) To move from the facility.

(b) All persons accepted to facilities, or their responsible persons, shall be personally advised and given a copy of these rights at admission. The licensee shall have all residents or their responsible persons sign a copy of these rights and the signed copy shall be included in the resident's record.

(c) Facilities licensed for seven (7) or more shall prominently post, in areas accessible to the residents and their relatives, the following:

(1) Procedures for filing confidential complaints.

(2) A copy of these rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.

(d) The information in (c) above shall be posted in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.30, 1569.31, and 1569.313, Health and Safety Code.

HISTORY:

1. Amendment filed 12-30-87; operative 1-29-88 (Register 88, No. 2).

Article 3. ~~Physical Plant~~ Application Procedures

87686 ~~87200~~ Alterations to Existing Buildings or New Facilities.

(a) Prior to construction or alterations, all facilities shall obtain a building permit.

(b) The licensing agency may require the facility to acquire a local building inspection where the agency determines that a suspected hazard to health and safety exists.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, ~~1531~~, and ~~1537~~, Health and Safety Code.

87687 ~~87202~~ Fire Safety.

All facilities shall be maintained in conformity with the regulations adopted by the State Fire Marshal for the protection of life and property against fire and panic.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

87690 ~~87204~~ Resident and Support Services.

(a) Nothing in these regulations shall prohibit the provision of required services from a centralized service facility serving two or more licensed facilities when approved in writing by the licensing agency.

(b) Administrative offices or area shall be maintained in facilities having a capacity of sixteen (16) persons or more, which includes space for business, administration and admission activities, a reception area and restroom facilities which may be used by visitors. Appropriate equipment shall be available, including a telephone. A private office shall be maintained for the administrator or other professional staff as appropriate.

(c) General storage space shall be maintained for equipment and supplies as necessary to ensure that space used to meet other requirements of these regulations is not also used for storage.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

1569.30, 1569.31, 7
1569.312

8769/87206. Maintenance and Operation.

(a) The facility shall be clean, safe, sanitary and in good repair at all times. Maintenance shall include provision of maintenance services and procedures for the safety and well-being of residents, employees and visitors.

(1) Floor surfaces in bath, laundry and kitchen areas shall be maintained in a clean, sanitary, and odorless condition.

(b) A comfortable temperature for residents shall be maintained at all areas.

(1) The facility shall heat rooms that residents occupy to a minimum of 68 degree F, (20 degree C).

(2) The facility shall cool rooms to a comfortable range, between 78 degrees F (26 degrees C) and 85 degrees F (30 degrees C), or in areas of extreme heat to 30 degrees F less than the outside temperature.

(3) Nothing in this section shall prohibit residents from adjusting individual thermostatic controls.

(c) All window screens shall be clean and maintained in good repair.

(d) There shall be lamps or light appropriate for the use of each room and sufficient to ensure the comfort and safety of all persons in the facility.

(e) Water supplies and plumbing fixtures shall be maintained as follows:

(1) All community care facilities where water for human consumption is from a private source shall:

(A) As a condition of initial licensure, provide evidence of an on-site inspection of the source of the water and a bacteriological analysis by a local or state health department or other qualified public or private laboratory which establishes the safety of the water.

(B) Following licensure, provide a bacteriological analysis of the private water supply as frequently as is necessary to assure the safety of the residents, but no less frequently than the time intervals shown in the table below. However, facilities licensed for six or fewer residents shall be required to have a bacteriological analysis subsequent to initial licensure only if evidence supports the need for such an analysis to protect residents.

<i>Licensed Capacity</i>	<i>Analysis Required</i>	<i>Periodic Subsequent Analysis</i>
Under 6	Initial Licensing	Upon evidence of need
7 through 15	Initial Licensing	Annually
16 through 24	Initial Licensing	Every six months
25 or more	Refer to the county health department for compliance with the California Safe Drinking Water Act, Health and Safety Code, Division 5, Part 1, Chapter 7, Water and Water Systems.	

(2) Faucets used by residents for personal care such as shaving and grooming shall deliver hot water. Hot water temperature controls shall be maintained to automatically regulate the temperature of hot water used by residents to attain a temperature of not less than 105 degree F (41 degree C) and not more than 120 degree F (49 degree C).

TITLE 22**COMMUNITY CARE FACILITIES**

§ 87206

(p. 2454.11)

(Register 87, No. 25—6-20-87)

(3) Taps delivering water at 125 degree F (52 degree C) or above shall be prominently identified by warning signs.

(4) Grab bars shall be maintained for each toilet, bathtub and shower used by residents.

(5) Non-skid mats or strips shall be used in all bathtubs and showers.

(6) Toilet, handwashing and bathing facilities shall be maintained in operating condition. Additional equipment shall be provided in facilities accommodating physically handicapped and/or nonambulatory residents, based on the residents' needs.

(f) Solid waste shall be stored and disposed of as follows:

(1) Solid waste shall be stored, located and disposed of in a manner that will not permit the transmission of a communicable disease or of odors, create a nuisance, provide a breeding place or food source for insects or rodents.

(2) Syringes and needles, before being discarded into waste containers, shall be rendered unusable.

(3) All containers, except movable bins, used for storage of solid wastes shall have tight-fitting covers on the containers; shall be in good repair; shall have external handles; and shall be leakproof and rodent-proof.

(4) Movable bins when used for storing or transporting solid wastes from the premises shall have tight-fitting covers on the containers; shall be in good repair; and shall be rodent-proof unless stored in a room or screened enclosure.

(5) Solid waste containers, including movable bins, receiving putrescible waste shall be emptied at least once per week or more often if necessary. Such containers shall be maintained in a clean and sanitary condition.

(6) Each movable bin shall provide for suitable access and a drainage device to allow complete cleaning at the storage area.

(g) Facilities which have machines and do their own laundry shall:

(1) Have adequate supplies available and equipment maintained in good repair. Space used to sort soiled linen shall be separate from the clean linen storage and handling area. Except for facilities licensed for fifteen (15) residents or less, the space used to do laundry shall not be part of an area used for storage of anything other than clean linens and/or other supplies normally associated with laundry activities. Steam, odors, lint and objectionable laundry noises shall not reach resident or employee areas.

(2) Make at least one machine available for use by residents who are able and who desire to do their own personal laundry. This machine shall be maintained in good repair. Equipment in good repair shall be provided to residents who are capable and desire to iron their own clothes.

(h) Emergency lighting shall be maintained. At a minimum this shall include flashlights, or other battery powered lighting, readily available in appropriate areas accessible to residents and staff. Open-flame lights shall not be used.

(i) Facilities shall have signal systems which shall meet the following criteria:

(1) All facilities licensed for 16 or more and all residential facilities having separate floors or buildings shall have a signal system which shall:

(A) Operate from each resident's living unit.

(B) Transmit a visual and/or auditory signal to a central staffed location or produce an auditory signal at the living unit loud enough to summon staff.

(C) Identify the specific resident living unit.

(2) Facilities having more than one wing, floor or building shall be permitted to have a separate system in each, provided each meets the above criteria.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.30 and 1569.31, Health and Safety Code.

HISTORY:

1. Amendment of subsection (b) filed 6-15-87; operative 7-15-87 (Register 87, No. 25).

~~87692~~ ~~8720S~~ Storage Space.

(a) Disinfectants, cleaning solutions, poisons, firearms and other items which could pose a danger if readily available to clients shall be stored where inaccessible to clients.

(1) Storage areas for poisons, and firearms and other dangerous weapons shall be locked.

(2) In lieu of locked storage of firearms, the licensee may use trigger locks or remove the firing pin.

(A) Firing pins shall be stored and locked separately from firearms.

(3) Ammunition shall be stored and locked separately from firearms.

(b) Medicines shall be stored as specified in Section ~~87610~~ ⁸⁷⁵⁷⁵ (c) and separately from other items specified in (a) above.

(c) The items specified in (a) above shall not be stored in food storage areas or in storage areas used by or for clients.

NOTE: Authority cited: Section ~~1569.30~~ ^{1569.1, 1569.30, 1569.31 + 1569.32}, Health and Safety Code. Reference: Sections ~~1501~~ ¹⁵⁰¹ and ~~1531~~ ¹⁵³¹, Health and Safety Code.

HISTORY:

1. New section filed 5-21-85; effective thirtieth day thereafter (Register 85, No. 21).

Article 4 ~~Civil Penalties~~ ADMINISTRATIVE ACTIONS

~~8745~~ ~~87300~~ Serious Deficiencies-Examples.

(a) Regulations including but not limited to the following may result in serious deficiencies when a failure to comply presents an immediate or substantial threat to the physical health, mental health, or safety of the residents:

~~87219~~ → (1) Section ~~87404~~ relating to criminal record clearance.

~~87220~~ → (2) Section ~~87405~~ relating to fire clearance.

~~87110~~ → (3) Section ~~87137~~ relating to limitations on the number or types of facility residents.

~~87573~~ → (4) Section ~~87134~~ relating to telephone service.

~~87582~~ → (5) Section ~~87702~~ (c) (1) or (2) or (d) relating to persons with communicable diseases or persons requiring inpatient health care.

~~87110~~ → (6) Section ~~87137~~ (b) relating to nonambulatory residents.

~~87572~~ → (7) Section ~~87144~~ (a) (3) relating to resident rights.

~~87578~~ → (8) Section ~~87606~~ (a) relating to restraints.

~~87577~~ → (9) Sections ~~87602~~ (d) (3) through (7) or (e) relating to safety of resident accommodations.

~~87576~~ → (10) Section ~~87604~~ (b) (24), (25) or (27) relating to storage, preparation and service of food.

~~87575~~ → (11) Section ~~87610~~ (b) (3) relating to medical and dental care of residents.

~~87575~~ → (12) Section ~~87610~~ (c) relating to storing and dispensing medications.

~~87691~~ → (13) Section ~~87206~~ (e) (2) relating to hot water temperature.

~~87691~~ → (14) Section ~~87206~~ (e) (4), (5), or (6) relating to toilet, handwashing and bathing accommodations.

~~87691~~ → (15) Section ~~87206~~ (f) (1) or (2) relating to storage and disposal of solid wastes, syringes and needles.

~~87581~~ → (16) Section ~~87514~~ relating to night supervision.

*cross out
authority +
reference or
shown + add
Authority: 1569.30
Reference: 1569.30,
1569.31, 1569.312,
1569.315, 1569.335,
1569.485, + 1569.49*

87452 ~~87302~~ Deficiencies in Compliance.

(a) When a routine visit, evaluation or investigation of a complaint is conducted and the evaluator determines that a deficiency exists, the evaluator shall issue a notice of deficiency, unless the deficiency is minor and corrected during the visit.

(b) Prior to completion of a visit, evaluation or investigation, the evaluator shall meet with the licensee, administrator, operator, or other person in charge of the facility to discuss any deficiencies noted. At the meeting, a plan for correcting each deficiency shall be developed and included in the notice of deficiency. Prior to completion of the visit the evaluator shall serve the notice of deficiency on the licensee by either:

- (1) Personal delivery to the licensee, or
- (2) If the licensee is not at the facility site, leaving the notice with the person in charge of the facility and also mailing a copy to the licensee.

(c) The notice of deficiency shall be in writing and shall include:

(1) A reference to the statute or regulation upon which the deficiency is premised.

(2) A factual description of the nature of the deficiency fully stating the manner in which the licensee failed to comply with specified statute or regulation, and the particular place or area of the facility in which it occurred.

(3) A date by which each deficiency shall be corrected.

(A) In prescribing the date for correcting a deficiency, the evaluator shall consider the following factors:

1. The seriousness of the deficiency.
2. The number of residents affected.
3. The availability of equipment or personnel necessary to correct the deficiency.
4. The estimated time necessary for delivery and any installation of necessary equipment.

(B) The evaluator shall require that the deficiency be corrected within 24 hours if there is an immediate threat to the health or safety of the residents. However, the date for correcting a deficiency shall not be more than 30 days following service of the notice of deficiency, unless the evaluator determines that the deficiency cannot be completely corrected in 30 days. If the date for correcting the deficiency is more than 30 days following service of the notice of deficiency, the notice shall specify actions which must be taken within 30 days to begin correction.

(4) The amount of penalty which shall be assessed and the date the penalty shall begin if the deficiency is not corrected by the specific due date.

(5) The address and telephone number of the licensing office responsible for reviewing notices of deficiencies for the area in which the facility is located.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.31, 1569.312, 1569.315, 1569.335, 1569.485 + 1569.49, Health and Safety Code.

87453 ~~87304~~ Follow-Up Visits to Determine Compliance.

(a) A follow-up visit shall be conducted within 10 working days following the latest date of correction specified in the notice of deficiency, unless the licensee has demonstrated that the deficiency was corrected as required in the notice of deficiency. No penalty shall be assessed unless a follow-up visit is conducted.

§ 87304

(p. 2454.14)

COMMUNITY CARE FACILITIES

TITLE 22

(Register 85, No. 21—5-25-85)

(Next page is 2454.22.17)

TITLE 22

COMMUNITY CARE FACILITIES

§ 87400

(Register 86, No. 8—2-22-86)

(p. 2454.22.17)

(b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of deficiency, the evaluator shall issue a notice of penalty.

(c) A notice of penalty shall be in writing and shall include:

(1) The amount of penalty assessed, and the date the payment is due.

(2) The name and address of the agency responsible for collection of the penalty.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

87455/87306: Penalties.

(a) A penalty of \$50 per day shall be assessed for all serious deficiencies that are not corrected by the date specified in the notice of deficiency.

(b) A penalty of \$25 per day shall be assessed for all deficiencies, other than serious deficiencies, that are not corrected by the date specified in the notice of deficiency.

(c) The maximum daily penalty shall not exceed \$50.

(d) If any deficiency is not corrected by the date specified in the notice of deficiency, a penalty shall be assessed for each day following that date until compliance has been demonstrated. In the event that a licensee or his/her representative reports to the licensing agency that a deficiency has been corrected, the penalty shall cease as of the day the licensing agency receives notification that the correction has been made. A site visit shall be made immediately or within five working days. If it can be verified that the correction was made prior to the date of notification, the penalty shall cease as of that earlier date.

(e) All penalties shall be made payable to the agency indicated in the notice of penalty. Payments shall be made by check or money order and are due and payable upon receipt of notice from the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

87455-87308: Administrative Review.

(a) A licensee or his/her representative may request a review of a notice of deficiency and/or notice of penalty within 10 working days. This review shall be conducted by a higher level staff person other than the evaluator who issued the notice of deficiency and/or notice of penalty.

(b) If the reviewer determines that a notice of deficiency or notice of penalty was not issued in accordance with applicable statutes and regulations of the Department, he/she shall amend or dismiss the notice. In addition, the reviewer may extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented to support a request for extension.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Section 1534, Health and Safety Code.

Article 5 ENFORCEMENT PROVISIONS

87107-87400: Exemption from Licensure.

(a) The following shall be allowed to operate without being licensed as a residential facility for the elderly.

(1) Any health facility, as defined by Health and Safety Code Section 1250.

(2) Any clinic, as defined by Health and Safety Code Section 1200.

(3) Any facility conducted by and for the adherents of any well-recognized church or religious denomination for the purpose of providing facilities for the care or treatment of the sick who depend on prayer or spiritual means for healing in the practice of the religion of such church or denomination. Such facilities shall be limited to those facilities or portions thereof which substitute

1569.33, 1569.335,
1569.35, 1569.485
+ 1569.49

1569.33, 1569.335
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1569.485 + 1569.49

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1569.35, 1569.485 +
1569.49

87459
RDB 0388-11
ATTACHED

87458
RDB 0389-11
ATTACHED

FACE SHEET

(See Instructions on Reverse)

RDB #0387-11

1988 JUL 18 PM 4:40

OFFICE OF
ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

L. S. M. M.
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 7/15/88

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief

Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance
(Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

80058; 80059; 87055; 87056; 87456, and 87457

SECTIONS AMENDED:

80001; 80005; 80006; 80018 (c) (17); 80040; 87001; 87005; 87006;
87018; 87040; 87101; 87105; 87106 and 87340

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission
(Include FPPC approval stamp)

☐ Building Standards Commission
(Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))

July 31, 1987

July 18, 1988

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective upon filing with the Secretary of State.

c. ☐ Effective on _____ as required or allowed by the following statute(s): _____

d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

Adopt new Section 87310 to read:

⁴⁵⁷
~~87310~~

UNLICENSED FACILITY PENALTIES

87310

- (a) A penalty or \$200 per day shall be assessed for the operation of an unlicensed facility under either of the following conditions:
- (1) The operator has not submitted a completed application for licensure within 15 calendar days of issuance of the Notice of Operation in Violation of Law pursuant to Section 87016.
- (A) For purposes of this section, an application shall be deemed completed if it includes the information required in Section 87~~602~~⁶¹⁸.
- (B) The completed application shall be deemed to be submitted when received by the licensing agency.
- (2) Unlicensed operation continues after denial of the initial application.
- (A) Notwithstanding any appeal action facility operation must cease within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.
- (b) The \$200 per day penalty shall be assessed for the continued operation of an unlicensed facility as follows:
- (1) On the 16th calendar day after the operator has been issued the Notice of Operation in Violation of Law, and has not submitted a completed application as required.
- The \$200 per day penalty shall continue until the operator ceases operation, or submits a completed application pursuant to Sections 87310(a)(1)(A) and (8).
- (2) Within 10 calendar days of the mailing of the notice of denial or upon receipt of the denial notice by the operator, whichever occurs first.

(A) The \$200 per day penalty shall continue until the operator ceases operation.

(c) If the unlicensed operator or his/her representative reports to the licensing agency that unlicensed operation, as defined in 1569.44 of the Health and Safety Code, has ceased, the penalty shall cease as of the day the licensing agency receives the notification.

(1) A site visit shall be made immediately or within five working days to verify that the unlicensed facility operation has ceased.

(2) Notwithstanding (c) above, if the unlicensed facility operation has not ceased, penalties shall continue to accrue without interruption from the date of initial penalty assessment.

(d) All penalties shall be due and payable upon receipt of the Notice of Payment from the licensing agency, and shall be paid by check or money order made payable to the agency indicated in the notice.

(e) The licensing agency shall have the authority to file a claim in a court of competent jurisdiction or to take other appropriate action for failure to pay penalties as specified in (d) above.

(f) Payment of civil penalties or application for licensure in response to a citation under this section do not permit the operation of a residential facility for the elderly without a license.

(1) Section 1569.10 of the Health and Safety Code provides in part:

No person, firm, partnership, association, or corporation within the state and no state or local public agency shall operate, establish, manage, conduct or maintain a residential facility for the elderly in this state, without first obtaining and maintaining a valid license therefor as provided in this Chapter.

Authority Cited: Section 1569.30, Health and Safety Code.

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Reference:

Sections 1569.3, 1569.10, 1569.11, 1569.14,
1569.145, 1569.15, 1569.19, 1569.20, 1569.21,
1569.22, 1569.312, 1569.35, 1569.44, 1569.45,
1569.485, and 1569.495, Health and Safety Code.

Adopt new Section 87311 to read:

⁴⁵⁸
~~87311~~

UNLICENSED FACILITY ADMINISTRATIVE APPEAL

87311

- (a) An unlicensed operator or his/her representative shall have the right to appeal the penalty assessment within 10 working days after service of the penalty assessment.
 - (1) If the unlicensed facility operation has not ceased, the \$200 per day penalty shall continue to accrue during the appeal process.
- (b) The appeal review shall be conducted by a higher level staff person than the evaluator who issued the penalty.
- (c) If the reviewer of the appeal determines that the penalty assessment was not issued in accordance with applicable statutes and regulations of the Department, he/she shall have the authority to amend or dismiss the penalty assessment.

Authority Cited: Section 1569.30, Health and Safety Code.

Reference: Sections 1569.10, 1569.44, 1569.45, and 1569.485, Health and Safety Code.

prayer for medical/nursing services which would otherwise be provided for or required by residents in a health facility, as defined by Sections 1200 or 1250 of the Health and Safety Code.

(4) Any house, institution, hotel, or other similar place that supplies board and room only, or room only, or board only, if no element of care and/or supervision, as defined by this chapter, is provided, made available, or contractually promised, such as in a life care agreement or program agreement with a facility. However, this shall not preclude care and/or supervision provided for brief and irregular periods of time for reasons such as temporary illnesses or emergencies provided that such is determined to be minor and temporary and does not require twenty-four (24) hour supervision of the resident(s).

(5) Recovery houses or other similar facilities providing group living arrangements for persons recovering from alcoholism or drug addiction where the facility provides no care and supervision.

(6) Any alcoholism recovery facility as defined by Section 11834.11 of the Health and Safety Code relating to alcohol programs.

(7) Any care and supervision of persons by a relative, guardian or conservator.

(8) Any care and supervision of persons from only one family by a close friend, if such arrangement is not for financial profit and occurs only occasionally and irregularly. For the purposes of this exemption the term "occasionally and irregularly" means not to exceed ten (10) hours per week; however, this shall not preclude care provided for brief periods of time for reasons such as family emergencies, vacations, military leave, and similar situations.

(9) Any similar facility as determined by the Director.

NOTE: Authority cited: Section ~~1500~~^{1569.30}, Health and Safety Code. Reference: Sections ~~1500~~^{1569.30} and 11834.11, Health and Safety Code.

HISTORY:

1. Renumbering of former subsections (a) (6)–(a) (8) to subsections (a) (7)–(a) (9) and new subsection (a) (6) filed 2-21-86; effective thirtieth day thereafter (Register 86, No. 8).

87218-57402- Application for License.

(a) Any individual, firm, partnership, association, corporation or governmental entity desiring to obtain a license shall file with the licensing agency a verified application on forms furnished by the licensing agency. For renewal applications, the information submitted on the previous application shall be verified and updated where appropriate. The licensee shall cooperate with the licensing agency in providing verification and/or documentation as requested by the licensing agency. The application and supporting documents shall contain the following:

(1) Name or proposed name and address of facility.

(2) Name and address of applicant.

(3) If the applicant is a partnership, the name, signature and principal business address of each partner.

(4) If the applicant is a corporation or association, the name, title and principal business address of each officer and member of the governing board. The application shall be signed by the chief executive officer or authorized representative. In addition, a copy of the Articles of Incorporation, Constitution and By-laws, and the name and address of each person owning more than 10 percent of stock in the corporation shall be provided.

(5) Name and address of owner of facility premises if applicant is leasing or renting.

(6) The category of facility to be operated.

(7) Maximum number to be served.

(8) Name of Administrator.

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1569.145

TITLE 22**COMMUNITY CARE FACILITIES**

§ 87404

(Register 88, No. 2—1-9-88)

(p. 2454.22.19)

(9) Copy of the current organizational chart showing type and number of positions and line of authority. However, facilities for less than sixteen persons may furnish, in lieu of an organization chart, a list of positions and the periods of time that persons in these positions will be providing services at the facility.

(10) Evidence pursuant to Health and Safety Code, Section 1520(b).

(11) A financial plan of operation on forms provided or approved by the Department. Start-up funds shall be sufficient to meet a minimum of three (3) months operating costs. In addition:

(A) Where construction is anticipated to meet the requirements for a license, sufficient financing for the construction shall be available.

(B) The scope of the applicant's services shall be such that an adequate quality of service will be permitted from available funds. The licensing agency shall have the right to verify the availability of these funds.

(12) In the case of a change of licensee of a licensed facility, the required documentation specified in Section ~~87138~~(f). ~~87138~~ **87227**

(13) Information concerning insurance carried by the applicant relating to the operation of the facility.

(14) Plan of Operation as specified in Section ~~87504~~ **87222**

(15) The fee for processing the application or renewal for the requested capacity as specified in Section ~~87424~~ **87224**

(16) Name, address and telephone number of the city or county fire department, the district providing fire protection services, or the State Fire Marshal's Office having jurisdiction in the area where the facility is located.

(17) Such other information as may be required by the licensing agency for the proper administration and enforcement of the licensing law and regulations.

(b) An application shall be filed with the licensing agency which serves the area in which the facility is located.

NOTE: Authority cited: Sections 1569.18 and 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.5, 1569.15, 1569.151, 1569.16, 1569.17, 1569.175, 1569.18, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.30, 1569.312, 1569.45, 1569.60 and 1569.62, Health and Safety Code.

HISTORY:

1. Renumbering of subsection (b) (15) to (b) (16) and new subsection (b) (15) filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

2. Renumbering of subsection (b) (16) to (b) (17) and new subsection (b) (16) filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

87219 ~~87404~~ Criminal Record Clearance.

(a) The licensing agency shall conduct a criminal record review of all persons specified in Health and Safety Code Section ~~1522(b)~~ **1569.17** and shall have the authority to approve or deny a facility license, or employment, residence, or presence in the facility, based upon the results of such review.

(b) A fingerprint clearance shall be received by the licensing agency on all persons subject to criminal record review prior to issuing a license.

(c) All persons subject to criminal record review shall, prior to employment, residence, or initial presence in the facility be fingerprinted and sign a statement regarding prior criminal convictions as specified in Section ~~87510(A)~~ **87565(F)**

(1) If the signed statement indicates a conviction for any crime other than a minor traffic violation for which the fine was \$50 or less, the licensee shall

immediately notify the licensing agency and the licensing agency will take appropriate action as specified in ~~87404(e)~~: ~~87404(e)~~ ^{87404(e)}

(2) Completed fingerprint card(s) shall be submitted to the licensing agency within 20 days following employment, residence, or initial presence in the facility.

(d) In determining whether individuals must submit fingerprint card(s) as specified in Health and Safety Code Section ~~1522(b)~~, the licensing agency shall consider the following: ^{1569.17} ~~1522(b)~~ ^(e)

- (1) Anticipated type and degree of contact with the clients.
- (2) Supervision received by the employee or volunteer.
- (3) Duties of the employee or volunteer.
- (4) Whether the facility constitutes the legal residence or the place an adult, other than the client, lives the majority of the time.

(e) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine for \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, the licensing agency shall take the actions specified in Health and Safety Code Section 1569.17(c).

(1) If the signed statement indicates that the person has been convicted of a crime other than a minor traffic violation for which the fine was \$50 or less, the licensing agency shall take the same actions as would be taken in ~~1522(c)~~ if a criminal record transcript had been received. ^{1569.17(c)}

(f) If the criminal record transcript of any of the persons specified in Health and Safety Code Section 1569.17(b) discloses a plea or verdict of guilty or a conviction following a plea of nolo contendere for any crime other than a minor traffic violation for which the fine was \$50 or less before April 5, 1984 or pursuant to paragraph (1) subdivision (a) of Section 42001 of the Vehicle Code after April 4, 1984, and an exemption pursuant to Section ~~87404(g)~~, has not been granted, the licensing agency shall take the following actions: ^{87404(g)} ~~87404(g)~~ ^(g)

(1) For initial applicants, denial of the application.

(2) For current licensees, institution of legal remedies, including but not limited to revocation of the license.

(3) For current or prospective employees, denial of the application or revocation of the license if the person continues to provide services and/or reside at the facility.

(4) For convicted persons residing in the facility including spouses of the applicant, licensee, or employee, denial of the application or revocation of the license if the person continues to provide services and/or reside at the facility.

(g) After a review of the criminal record transcript, except for the crimes specified in Health and Safety Code Section ~~1522(e)~~ the licensing agency or the Department shall have the authority to grant an exemption from (f) above. Exemption requests from the applicant/licensee shall be in writing and present evidence satisfactory to the Department or licensing agency that the subject individual has been rehabilitated and presently is of such good character as to justify the issuance of the license or the provision of service in the facility. ^{1569.17(e)}

(1) The licensing agency shall have the authority to consider factors including but not limited to the following as evidence of good character and rehabilitation:

TITLE 22

COMMUNITY CARE FACILITIES

§ 8740S

(Register 88, No. 2—1-9-88)

(p. 2454.22.21)

- (A) The nature of the crime.
- (B) Period of time since the crime was committed and number of offenses.
- (C) Circumstances surrounding the commission of the crime that would demonstrate the unlikelihood of repetition.
- (D) Activities since conviction, such as employment or participation in therapy or education, that would indicate changed behavior.
- (E) Granting by the Governor of a full and unconditional pardon.
- (F) Character references.
- (G) A certificate of rehabilitation from a superior court.
- (h) The reasons for any exemption granted shall be in writing and kept by the licensing agency.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.17, Health and Safety Code; and Section 42001, Vehicle Code.

HISTORY:

1. Repealer and new section filed 7-10-85; effective thirtieth day thereafter (Register 85, No. 28).
2. Amendment of subsections (e) and (f) filed 6-5-87; operative 7-5-87 (Register 87, No. 25).

87220-87406. Fire Clearance.

(a) All facilities shall maintain a fire clearance approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal. Prior to accepting any of the following types of persons, the applicant or licensee shall notify the licensing agency and obtain an appropriate fire clearance, approved by the city or county fire department, the district providing fire protection services, or the State Fire Marshal, through the licensing agency:

- (1) Persons over 65 years of age.
- (2) Nonambulatory persons.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.30 and 1569.312, Health and Safety Code.

HISTORY:

1. Amendment filed 12-30-87 as an emergency; operative 1-1-88 (Register 88, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5-2-88.

87230-87408. Withdrawal of Application.

(a) The applicant may withdraw an application for an initial or renewal license. However, unless the licensing agency consents in writing to such withdrawal, the Department or licensing agency shall not be deprived of its authority to institute or continue a proceeding against the applicant for the denial of the license upon any ground provided by law or to enter an order denying the license upon any such ground.

(b) The fee for processing the initial or renewal application shall be forfeited.

NOTE: Authority cited: Sections 1569.18 ~~and 1530~~ **and 1569.30**, Health and Safety Code. Reference: Sections ~~1525, 1526, 1530, 1551, 1552~~, 1569.18, 1569.20, 1569.22, 1569.30, 1569.50, 1569.51 and 1569.52, Health and Safety Code.

HISTORY:

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

87228 ~~87410~~ Application Review.

(a) No initial license shall be issued until the licensing agency has completed the following:

(1) A review which includes an on-site survey of the proposed premises and a determination of the qualifications of the applicant.

(2) A determination that the applicant has secured a fire clearance from the State Fire Marshal.

(3) A determination that the applicant and facility comply with the provisions of Chapter 3 (commencing with Section ~~1500~~) of Division 2 of the Health and Safety Code, and the regulations in this chapter. 1569

NOTE: Authority cited: Section ~~1501~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1509~~, ~~1511~~, ~~1520~~, ~~1520.2~~, ~~1525~~, ~~1526~~, ~~1530~~, ~~1531~~, ~~1533~~, ~~1534~~, ~~1536~~, and ~~1551~~, Health and Safety Code. 1569.2, 1569.15, 1569.155, 1569.16, 1569.17, 1569.175, 1569.18, 1569.20, 1569.24, 1569.31, 1569.312, 1569.313, 1569.315,

87231 ~~87412~~ Provisional License.

(a) The licensing agency may issue a provisional license to an applicant who has submitted a completed application for an initial license if the licensing agency determines that there are no life safety risks, that the facility is in substantial compliance, as defined in Section ~~87000~~ (a) (43), with applicable law and regulations, and an immediate need for licensure exists as defined in Section ~~87000~~ (a) (23). 87101

(b) The capacity of a provisional license shall be limited to the number of residents for whom immediate need has been established, or the capacity established for the specific facility, whichever is less.

(c) A provisional license shall not be renewable and shall terminate on the date specified on the license, or upon denial of the application, whichever is earlier.

(1) A provisional license may be issued for a maximum of six (6) months when the licensing agency determines that full compliance with licensing regulations will be achieved within that time period.

(2) A provisional license may be issued for a maximum of twelve (12) months when the licensing agency determines, at the time of application, that more than six (6) months is required to achieve full compliance with licensing regulations due to circumstances beyond the control of the applicant.

(d) If, during the provisional licensing period, the licensing agency discovers deficiencies which threaten the physical health, mental health, safety or welfare of the residents, the Department may exercise its discretion to institute administrative action or civil proceedings or to refer for criminal prosecution.

87228 ~~87410~~ (e) If the licensing agency determines after its review, specified in Section ~~87414~~, that the licensee does not meet the licensing requirements, the application shall be denied, as specified in Section ~~87414~~. 87350

(f) If the licensing agency denies the application for an initial license, the applicant may appeal the denial, as provided in Section ~~87414~~. Until the Director adopts a decision on the denial action, the facility shall be unlicensed. 87350

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1525~~, ~~1530~~, and ~~1536~~, Health and Safety Code. 1569.17, 1569.18, 1569.15, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24

87340 ~~87414~~ Denial of Initial License. 87231 (d)

(a) Except as specified in Section ~~87412~~ (a), which provides that the applicant may be issued a provisional license based upon substantial compliance and immediate need, the licensing agency shall deny an application for an initial license if it is determined that the applicant is not in compliance with applicable law and regulations.

TITLE 22

COMMUNITY CARE FACILITIES

§ 87420

(p. 2454.22.23)

(Register 88, No. 2—1-9-88)

RDB 0388-11

ATTACHED

(b) If the application for an initial license is denied, the application renewal processing fee shall be forfeited.

(c) If the application for an initial license is denied, the licensing agency shall send a written notice of denial by certified mail. The notification shall inform the applicant of the denial; set forth the reasons for the denial; and advise the applicant of the right to appeal.

(d) An applicant may appeal the denial of the application by sending a written notice of appeal to the licensing agency within 15 days of the postmark date of the denial notice.

(e) The licensing agency shall, upon receipt of the notice of appeal, advise the applicant in writing of the appeal procedure.

(f) The proceedings to review such denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Sections 1569.18 and 1530, Health and Safety Code. Reference: Sections 1520, 1520.3, 1525, 1526, 1551, 1553, 1569.1, 1569.18, 1569.21, and 1569.30, Health and Safety Code.

HISTORY:

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

87235-87416. Resubmission of Application.

(a) A new application shall be made whenever there is any change in conditions or limitations described on the current license, including, but not limited to:

(1) Any change in the location of the facility.

(2) Any change in the licensee.

(3) Failure to file a renewal or to complete a new application within the required time limit.

(4) Any increase in capacity.

(A) Minor capacity increases may be granted following an evaluation by the licensing agency without the need for resubmission of an application.

(5) A corporate organizational change, including but not limited to, change in structure, sale or transfer of the majority of stock, separating from a parent company, or merger with another company. The licensee shall notify the licensing agency of such organizational change within forty-eight (48) hours.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1503, 1508, 1509, 1513, 1520, and 1542, Health and Safety Code.

87234-87418. Application for Renewal of License.

An application for the renewal of a license shall be made on a form provided by the licensing agency and shall be filed with the licensing agency not less than thirty (30) days prior to the expiration date. Failure to make application for renewal within the prescribed time limit shall result in expiration of the license and the facility shall be unlicensed.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1520, 1524, 1530, and 1531, Health and Safety Code.

87341-87420. Denial of a Renewal License.

(a) The licensing agency shall deny an application for a renewal license when the licensee is not in substantial compliance, as defined in Section 87100(a)(43), with applicable law or regulations at the time of the renewal visit.

87101(a)(43)

FACE SHEET

(See Instructions on Reverse)

RDB #0387-11

1988 JUL 13 PM 4:40

OFFICE OF
ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services
(AGENCY)

Jul S. Mahesh
AGENCY OFFICER WITH RULEMAKING AUTHORITY

For use of Office of Adm Law

Date:

7/15/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)

☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)

☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title 22

SECTIONS ADOPTED:

80058; 80059; 87055; 87056; 87456, and 87457

SECTIONS AMENDED:

80001; 80005; 80006; 80018 (c) (17); 80040; 87001; 87005; 87006; 87018; 87040; 87101; 87105; 87106 and 87340

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption

☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission
(Include FPPC approval stamp)

☐ Building Standards Commission
(Attach approval)

☐ State Fire Marshall (Attach approval)

☐ Department of Finance (Attach properly signed Std. 399)

☐ Other

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))

July 31, 1987

July 18, 1988

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☒ Effective 30th day after filing with the Secretary of State.

b. ☐ Effective upon filing with the Secretary of State.

c. ☐ Effective on _____ as required or allowed by the following statute(s):

d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)

Attach request demonstrating good cause for early effective date. Request subject to OAL approval.

e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

Amend Section 87414 to read:

87414 DENIAL OF INITIAL LICENSE (Continued)

87414

(a) (Continued)

(b) The licensing agency shall have the authority to deny an application for an initial license if the applicant has failed to pay any civil penalty assessments pursuant to Section 87310 and in accordance with a final judgment issued by a court of competent jurisdiction, unless payment arrangements acceptable to the licensing agency have been made.

(~~b~~c) (Continued)

(~~e~~d) (Continued)

(~~d~~e) (Continued)

(~~e~~f) (Continued)

Authority Cited: Section ~~1538~~ 1569.30, Health and Safety Code.

Reference: Sections ~~1520, 1526.3, 1525, 1526, 1551, and 1553~~ 1569.15, 1569.20, 1569.22, 1569.485, and 1569.49, Health and Safety Code.

(b) The licensing agency shall deny the renewal application when failure to substantially comply with licensing requirements has resulted in the Department's action to suspend or revoke the license or to seek other remedies as provided by law.

(c) The licensing agency shall deny the renewal application when the licensee refuses or has failed to pay the application/renewal processing fee as specified in Section ~~87424(b)(2)~~ ⁸⁷²²⁴⁽⁴⁾⁽²⁾ ^{1569.22}

(d) If the application for a renewal license is denied, the licensing agency shall send the licensee a written notice of denial by certified mail. The notification shall inform the licensee of the denial and set forth the reasons for the denial.

(e) If the application for a renewal license is denied, the application/renewal processing fee shall be forfeited.

(f) The licensee may appeal the denial as provided in Section ~~1526~~ ^{1569.22} of the Health and Safety Code within fifteen (15) days after the certified mailing of the denial notice. Proceedings to review the denial shall be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Sections 1569.18, ~~and 1530~~ ^{1569.30}, Health and Safety Code. Reference: Sections ~~1520, 1524, 1525, 1526, 1530, 1551, 1552~~, 1569.15, 1569.18, 1569.19, 1569.20, 1569.22, 1569.30, 1569.50, 1569.51 and 1569.52, Health and Safety Code. ^{1569.23}

HISTORY:

1. Amendment filed 12-22-87; operative 1-21-88 (Register 88, No. 2).

⁸⁷²³³ ~~87422~~ Term of an Initial or Renewal License. ⁸⁷²³¹

(a) Except as provided in Section ~~87412~~ ⁸⁷⁴¹⁴, an initial license shall expire one year from the date of issuance.

(b) A renewal license may be issued for one year if the licensing agency determines that the licensee at the time of the renewal visit is in substantial compliance with applicable regulation and law.

(c) A renewal license may be issued for two years if the licensing agency determines that the licensee at the time of the renewal visit is in compliance with applicable regulation and law.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}, Health and Safety Code. Reference: Section ~~1524~~ ^{1569.19}, Health and Safety Code.

⁸⁷²²⁴ ~~87424~~ Application/Renewal Processing Fees.

(a) Except for facilities operated by public agencies, an applicant or a licensee shall be charged a fee for processing the application or renewal.

(b) The fee shall be charged at the time of initial and renewal application.

(1) The fee charged at initial application shall be according to requested capacity as follows:

Capacity	Original Application
1-6	\$100
7-15	\$150
16-49	\$200
50 +	\$250

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§ 87504

(Register 88, No. 2—1-9-88)

(p. 2454.22.24.1)

(2) The fee charged at renewal application shall be according to existing licensed capacity unless the licensee requests a lower or higher capacity. The fee schedule shall be as follows:

Capacity	Renewal Application
1-6	\$100
7-15	\$150
16-49	\$200
50 +	\$250

(c) No additional fee shall be charged when the licensee requests an increase in capacity during a licensing period.

(d) When a licensee moves a facility from one location to another, the application/renewal processing fee shall be as follows:

Capacity	Relocation
1-6	\$ 50
7-15	\$ 75
16-49	\$100
50 +	\$125

(1) To receive the reduced fee the following shall apply:

(A) The licensee shall have notified the licensing agency before actually relocating the facility.

(B) The categorical type of facility shall remain the same when relocating the facility.

(C) The fee shall be by requested capacity at the new location.

(e) The application/renewal processing fee shall be nonrefundable.

NOTE: Authority cited: Sections 1569.18 and 1569.30, Health and Safety Code. Reference: Sections 1569.18 and 1569.19, Health and Safety Code.

HISTORY:

1. New section filed 12-22-87, operative 1-21-88 (Register 88, No. 2).

Article 6. ~~CONTINUING~~ Administration and Staffing Requirements

87560-87502: Governing Body.

(a) The licensee, whether an individual or other entity, shall exercise general supervision over the affairs of the licensed facility and establish policies concerning its operation in conformance with these regulations and the welfare of the individuals it serves.

(b) If the licensee is a corporation or an association, the governing body shall be active, and functioning in order to assure accountability.

(c) Any change in the chief corporate officer of an organization, corporation or association shall be reported to the Department or licensing agency in writing within fifteen (15) working days following such change. Such notification shall include the name, address and the fingerprint card of the new chief executive officer as required by Section 87404. 87219

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1501, 1503, 1508, 1513, 1522, 1530, and 1531, Health and Safety Code.

87222-87504: Plan of Operation.

(a) Each facility shall have and maintain a current, written definitive plan of operation. The plan and related materials shall be on file in the facility and

1569.1, 1569.2
1569.15, 1569.17
1569.16, 1569.17
1569.30, 1569.34
1569.312

shall be submitted to the licensing agency with the license application. Any significant changes in the plan of operation which would affect the services to residents shall be submitted to the licensing agency for approval. The plan and related materials shall contain the following:

- (1) Statement of purposes and program goals.
- (2) A copy of the Admission Agreement, containing basic and optional services.
- (3) Statement of admission policies and procedures regarding acceptance of persons for services.
- (4) Administrative organization.
- (5) Staffing plan, qualifications and duties.
- (6) Plan for training of staff, as required by Section 87510. 87565
- (7) A sketch of the building(s) to be occupied, including a floor plan which describes the capacities of the buildings for the uses intended, a designation of the rooms to be used for nonambulatory residents, and a sketch of the grounds showing buildings, driveways, fences, storage areas, pools, gardens, recreation area and other space used by the residents. All sketches shall show dimensions.
- (8) Transportation arrangements for persons served who do not have independent arrangements.
- (9) A statement whether or not the applicant will handle residents' money and/or valuables. If money and/or valuables will be handled, the method for safeguarding pursuant to Sections 87136, 87140 and 87149.
- (10) A statement of the facility's policy concerning family visits and other communication with clients, as specified in Health and Safety Code Section 1569.313.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.2, 1569.30, 1569.31 and 1569.313, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code. 1569.15, 1569.137, 1569.175, 1569.312

HISTORY:

1. New subsection (a) (10) filed 12-30-87; operative 1-29-88 (Register 88, No. 2).

87562-87506: Finances.

The licensee shall have a financial plan which conforms to the requirements of Section 87402, and which assures sufficient resources to meet operating costs for care of residents; shall maintain adequate financial records; and shall submit such financial reports as may be required upon the written request of the Department or licensing agency. Such request shall explain the need for disclosure. The Department or licensing agency reserves the right to reject any financial report and to request additional information or examination including interim financial statements. 1569.30

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1520, 1530, and 1560, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code. 1569.1, 1569.24, 1569.15

87561-87508: Reports.

(a) Each licensee shall furnish to the licensing agency such reports as the Department may require, including, but not limited to, the following:

- (1) A written report shall be submitted to the licensing agency and to the person responsible for the resident within seven days of the occurrence of any of the events specified in (A) through (C) below. This report shall include the resident's name, age, sex and date of admission; date and nature of event;

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§ 87509

(Register 88, No. 2—1-9-88)

(p. 2454.22.24.3)

attending physician's name, findings, and treatment, if any; and disposition of the case.

(A) Death of any resident from any cause.

(B) Any serious injury as determined by the attending physician and occurring while the resident is under facility supervision.

(C) Any incident which threatens the welfare, safety or health of any resident, such as physical or psychological abuse of a resident by staff or other residents, or unexplained absence of any resident.

(2) Occurrences, such as epidemic outbreaks, poisonings, catastrophes or major accidents which threaten the welfare, safety or health of residents, personnel or visitors, shall be reported within 24 hours either by telephone or telegraph to the licensing agency and to the local health officer when appropriate.

(3) Fires or explosions which occur in or on the premises shall be reported immediately to the local fire authority; in areas not having organized fire services, within 24 hours to the State Fire Marshal; and no later than the next working day to the licensing agency.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530, and 1531, Health and Safety Code.

1569.1, 1569.2, 1569.3, 1569.31, 1569.32

87571-87509- Register of Residents.

(a) In all licensed facilities, the following shall apply:

(1) A current register of all residents in the facility shall be maintained; shall be updated as needed; shall be immediately available to licensing staff upon request; and shall contain the following information:

(A) Resident's name and ambulatory status as specified in Section

87570-87522(b) (1) and (9).

(B) Information on resident's attending physician, as specified in Section

87570-87522(b) (7).

(C) Information on the resident's responsible person, as specified in Section

87570-87522(b) (6)).

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(Register 88, No. 2—1-9-88)

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§ 87510

(Register 87, No. 25—6-20-87)

(p. 2454.22.25)

(2) The register shall be kept in a central location at the facility.

(A) The register shall be treated as confidential information pursuant to Section ~~87522~~ (c).

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Section 1569.315, Health and Safety Code.

HISTORY:

1. New section filed 1-8-87; effective thirtieth day thereafter (Register 87, No. 2).

~~87565-87510~~ Personnel Requirements—General.

(a) Facility personnel shall at all times be sufficient in numbers, and competent to provide the services necessary to meet resident needs. In facilities licensed for sixteen or more, sufficient support staff shall be employed to ensure provision of personal assistance and care as required in Section ~~87606~~. Additional staff shall be employed as necessary to perform office work, cooking, house cleaning, laundering, and maintenance of buildings, equipment and grounds. The licensing agency may require any facility to provide additional staff whenever it determines through documentation that the needs of the particular residents, the extent of services provided, or the physical arrangements of the facility require such additional staff for the provision of adequate services.

(b) All persons who supervise employees or who supervise or care for residents shall be at least eighteen (18) years of age.

(c) All personnel shall be given on the job training or have related experience in the job assigned to them. This training and/or related experience shall provide knowledge of and skill in the following, as appropriate for the job assigned and as evidenced by safe and effective job performance:

(1) Principles of good nutrition, good food preparation and storage, and menu planning.

(2) Housekeeping and sanitation principles.

(3) Skill and knowledge required to provide necessary resident care and supervision, including the ability to communicate with residents.

(4) Knowledge required to safely assist with prescribed medications which are self-administered.

(5) Knowledge necessary in order to recognize early signs of illness and the need for professional help.

(6) Knowledge of community services and resources.

(d) In facilities licensed for sixteen (16) or more there shall be a planned on the job training program in the areas above including orientation, skill training and continuing education.

(e) All personnel, including the licensee and administrator, shall be in good health, and physically and mentally capable of performing assigned tasks. Good physical health shall be verified by a health screening, including a chest x-ray or an intradermal test, performed by a physician not more than six (6) months prior to or seven (7) days after employment or licensure. A report shall be made of each screening, signed by the examining physician. The report shall indicate whether the person is physically qualified to perform the duties to be assigned, and whether he/she has any health condition that would create a hazard to him/herself, other staff members or residents. A signed statement shall be obtained from each volunteer affirming that he/she is in good health. Personnel with evidence of physical illness or emotional instability that poses a significant threat to the well-being of residents shall be relieved of their duties.

87219-87404 (f) Pending receipt of a criminal record transcript, as specified in Section 87404, and prior to employment or at initial presence in the facility, all employees and volunteers determined by the licensing agency to require criminal record clearances shall sign a statement under penalty of perjury, on a form provided by the Department, which contains either of the following:

(1) A declaration that he/she has not been convicted of a crime, other than a minor traffic violation as specified in Section 87404(e).

(2) Information regarding any prior convictions of a crime, with the exception of any minor traffic violation as specified in Section 87404(e). 87219

87219 (A) If a person has been convicted of a crime, other than a minor traffic violation as specified in Section 87404(e), he/she shall also acknowledge that his/her continued employment or presence in the facility is conditioned on approval of the licensing agency.

(g) All services requiring specialized skills shall be performed by personnel qualified by training or experience in accordance with recognized professional standards.

(h) Residents shall not be used as substitutes for required staff but may, as a voluntary part of their program of activities, participate in household duties and other tasks suited to the resident's needs and abilities.

(i) Volunteers may be utilized but may not be included in the facility staffing plan. Volunteers shall be supervised.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.17, 1569.30, and 1569.31, Health and Safety Code; and Section 42001, Vehicle Code.

HISTORY:

1. Relettering of subsections (f)-(h) to subsections (g)-(i) and new subsection (f) filed 7-10-85; effective thirtieth day thereafter (Register 85, No. 28).

2. Amendment of subsection (f) filed 6-5-87; operative 7-5-87 (Register 87, No. 25).

87580-87512 Personnel—Operations.

(a) In each facility:

(1) When regular staff members are absent, there shall be coverage by personnel with qualifications adequate to perform the assigned tasks.

(2) Care and supervision of residents shall be provided without physical or verbal abuse, exploitation or prejudice.

(3) The licensee shall provide for and encourage all personnel to report observations or evidence of such abuse, exploitation or prejudice.

(b) If the facility is licensed for sixteen (16) persons or more, there shall be a dated weekly employee time schedule displayed conveniently for employee reference. The schedule shall contain employee's name, job title, hours of work, and days off.

NOTE: Authority cited: Section 1530, Health and Safety Code. Reference: Sections 1501, 1530, and 1531, Health and Safety Code. 1569.30 Welfare Institutions Code 875600-15637

87581-87514 Night Supervision.

(a) The following persons providing night supervision from 10:00 p.m. to 6:00 a.m. shall be familiar with the facility's planned emergency procedures, shall be trained in first aid as required in Section 87610, and shall be available as indicated below to assist in caring for residents in the event of an emergency:

(1) In facilities caring for less than sixteen (16) residents, there shall be a qualified person on call on the premises.

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§ 87518

(Register 87, No. 2—1-10-87)

(p. 2454.22.27)

(2) In facilities caring for sixteen (16) to one hundred (100) residents at least one employee shall be on duty on the premises, and awake. Another employee shall be on call, and capable of responding within ten minutes.

(3) In facilities caring for one hundred one (101) to two hundred (200) residents, one employee shall be on call, on the premises; one employee shall be on duty on the premises and awake; and one employee shall be on call and capable of responding within 10 minutes.

(4) Every additional 100 residents, or fraction thereof, shall require an additional one (1) staff person on duty, on the premises and awake.

(5) In facilities required to have a signal system, specified in Section ~~87206~~, ⁸⁷⁶⁹¹ at least one night staff person shall be located to enable immediate response to the signal system. If the signal system is visual only, that person shall be awake.

(6) The requirements of this section shall not prohibit compliance with additional supervisory requirements required by the State Fire Marshal.

NOTE: Authority cited: Section ~~1530~~, ^{1569.30} Health and Safety Code. Reference: Sections ~~1501~~, ^{1569.1, 1569.2, 1569.30, 1569.31, & 1569.312} 1530, and ~~1531~~, Health and Safety Code.

⁸⁷⁵⁶³ ~~87516~~ Provision for Administrator.

(a) All facilities shall have an administrator. The licensee and the administrator may be one and the same person. The administrator shall have sufficient freedom from other responsibilities and shall be on the premises a sufficient number of hours to permit adequate attention to the management and administration of the facility as specified in Section ~~87516~~. When the administrator is not in the facility there shall be coverage by a designated substitute who shall have qualifications adequate to be responsible and accountable for management and administration of the facility as specified in Section ~~87516~~. The licensing agency may require that the administrator devote additional hours in the facility to his responsibilities when the need for such additional hours is substantiated by written documentation.

(b) The administrator of a facility or facilities shall have the responsibility and authority to carry out the policies of the licensee.

(c) When a change of administrator occurs, the licensing agency shall be notified in writing of the following within fifteen (15) working days of the change:

- (1) Name and address of the new administrator.
- (2) Date he/she assumed office.
- (3) Brief description of his/her background and qualifications.
- (4) Fingerprint cards. ^{1569.30}

NOTE: Authority cited: Section ~~1530~~, ^{1569.30} Health and Safety Code. Reference: Sections ~~1501~~, ^{1569.1, 1569.2, 1569.30, 1569.31, & 1569.312} 1522, 1530, and ~~1531~~, Health and Safety Code.

⁸⁷⁵⁶⁴ ~~87518~~ Administrator—Qualifications and Duties.

(a) The administrator shall have the qualifications specified in (1) through (5) below. If the licensee is also the administrator all requirements for an administrator shall apply.

(1) Knowledge of the requirements for providing care and supervision appropriate to the residents.

(2) Knowledge of and ability to conform to the applicable laws, rules and regulations.

(3) Ability to maintain or supervise the maintenance of financial and other records.

(4) When applicable, the ability to direct the work of others.

(5) Good character and a continuing reputation of personal integrity.

(b) The administrator of a facility licensed for sixteen (16) to forty-nine (49) residents shall have completed at least fifteen college or continuing education units; and shall have at least one year's experience providing residential care to the elderly; or equivalent education and experience as approved by the licensing agency.

(c) The administrator in facilities licensed for fifty (50) or more shall have two years of college; at least three years experience providing residential care to the elderly; or equivalent education and experience as approved by the licensing agency.

(d) All administrators shall be required to complete at least 20 clock hours of continuing education per year in areas related to aging and/or administration.

(e) Administrators employed/licensed prior to the effective date of these regulations shall not be required to comply with the provisions of (b) and (c) above.

(f) The administrator shall have the responsibility to:

(1) Administer the facility in accordance with these regulations and established policy, program and budget.

(2) Where applicable, report to the licensee on the operation of the facility, and provide the licensee with necessary interpretations of recognized standards of care and supervision.

(3) Develop an administrative plan and procedures to ensure clear definition of lines of responsibility, equitable workloads, and adequate supervision.

(4) Recruit, employ and train qualified staff, and terminate employment of staff who perform in an unsatisfactory manner.

(5) Provide or ensure the provision of services to the residents with appropriate regard for the residents' physical and mental well-being and needs, including those services identified in the residents' pre-admission appraisal, specified in Section ~~87704~~ ~~87583~~

(6) Make special provisions for the safety and guidance of residents with visual or auditory deficiencies.

(7) Make provision for the resident with unmet needs to attend available community programs, including but not limited to, arranging for transportation.

(8) Have the personal characteristics, physical energy and competence to provide care and supervision and, where applicable, to work effectively with social agencies.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}; Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

~~87566~~ ~~87520~~. Personnel Records.

(a) Employment application forms shall be completed and maintained on each employee and shall be available to the Department or licensing agency for review. Each personnel record shall contain the following information:

1569.1, 1569.2,
1569.30, 1569.31,
1569.312, 1569.62
1569.315

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§ 87522

(Register 87, No. 2—1-10-87)

(p. 2454.22.29)

- (1) Employee's full name.
 - (2) Social Security number.
 - (3) Date of employment.
 - (4) Written verification that employee is at least 18 years of age, which shall include but not be limited to a copy of his birth certificate or drivers license.
 - (5) Home address and telephone number.
 - (6) Educational background.
 - (A) For administrators this shall include verification that he/she meets the educational requirements in ~~87518(b) and (c)~~. 87569
 - (7) Past experience, including types of employment and former employers.
 - (8) Type of position for which employed.
 - (9) Termination date if no longer employed by the facility.
 - (10) Reasons for leaving.
 - (b) For all persons working in the facility, including the licensee, the administrator and employees, there shall be a record of the health screening or volunteer statement specified in Section ~~87510~~. 87565
 - (c) All personnel records shall be retained for at least three (3) years following termination of employment.
 - (d) In all cases, personnel records shall demonstrate adequate staff coverage necessary for facility operation by documenting the hours actually worked.
- NOTE: Authority cited: Section ~~1530~~, 1569.30, Health and Safety Code. Reference: Sections ~~1501, 1530, and 1531~~, Health and Safety Code.

1569.30, 1569.31,
+ 1569.312.

87570 ~~87522~~. Resident Records.

(a) A separate record shall be maintained for each resident. Such record shall be current and complete and shall be maintained in the facility or in a central administrative location readily available to facility staff and to the licensing agency.

(b) Each record shall contain at least the following information:

- (1) Resident's name and Social Security number.
- (2) Dates of admission and discharge.
- (3) Last known address.
- (4) Birthdate.
- (5) Religious preference, if any, and name and address of clergyman or religious advisor, if any.
- (6) Names, addresses, and telephone numbers of responsible persons, defined by Section ~~87100~~, to be notified in case of accident, death or other emergency. 87101
- (7) Name, address and telephone number of physician and dentist to be called in an emergency.
- (8) Reports of the medical assessment specified in Section ~~87712~~, and of any special problems or precautions. 87569
- (9) Ambulatory status.
- (10) Continuing record of any illness, injury, or medical or dental care, when it impacts the resident's ability to function or the services he needs.
- (11) Current centrally stored medications as specified in Section ~~87610~~. 87575
- (12) The admission agreement and pre-admission appraisal, specified in Sections ~~87718 and 87704~~. 87583
- (13) Records of resident's cash resources as specified in Section ~~87138~~. 87226

(c) All information and records obtained from or regarding residents shall be confidential.

(1) The licensee shall be responsible for storing active and inactive records and for safeguarding the confidentiality of their contents. The licensee and all employees shall reveal or make available confidential information only upon the resident's written consent or that of his designated representative.

(d) Original records or photographic reproductions shall be retained for a minimum of three (3) years following termination of service to the resident.

(e) All resident records shall be open to inspection and audit, by the licensing agency or Department and shall be subject to reproduction upon demand, at a reasonable cost, during normal business hours.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.315, 1569.32 and 1569.54, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

HISTORY:

1. Amendment of subsection (b) (6) filed 1-8-87; effective thirtieth day thereafter (Register 87, No. 2).

Article 7. ~~Basic Services~~ *PHYSICAL ENVIRONMENT*

~~§ 87590-87600.~~ Basic Services.

(a) The services provided by the facility shall be conducted so as to continue and promote, to the extent possible, independence and self-direction for all persons accepted for care. Such persons shall be encouraged to participate as fully as their conditions permit in daily living activities both in the facility and in the community.

(b) As used in this chapter, basic services are those services required to be provided in order to obtain and maintain a license.

(c) The admission agreement shall specify which of the basic services are desired and/or needed by, and will be provided for, each resident.

(d) A facility need not accept a particular resident for care. However, if a facility chooses to accept a particular resident for care, the facility shall be responsible for meeting the resident's needs as identified in the pre-admission appraisal specified in Section ~~87704~~ and providing the other basic services specified below, either directly or through outside resources.

(e) If the resident is an SSI/SSP recipient, then the basic services shall be provided and/or made available at the basic rate at no additional charge to the resident.

(1) An extra charge shall be allowed for a private room if a double room is made available but the resident prefers a private room, provided the arrangement is documented in the admissions agreement and the charge is limited to 10% of the Board and Room portion of the SSI/SSP grant.

(2) An extra charge shall be allowed for provision of special food services or products beyond that specified in (f) (2) below, when the resident wishes to purchase the services and agrees to the extra charge in the admission agreement.

(f) Basic services shall at a minimum include:

(1) Safe and healthful living accommodations and services, as specified in Section ~~87602~~ *§ 87577*

1569.30
1569.31
1569.312

§ 87583

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§ 87602

(Register 87, No. 2—1-10-87)

(p. 2454.22.30.1)

(2) Three nutritionally well-balanced meals and snacks made available daily, including low salt or other modified diets prescribed by a doctor as a medical necessity, as specified in Section ~~87604~~ *87576*

(3) Personal assistance and care as needed by the resident and as indicated in the pre-admission appraisal, with those activities of daily living such as dressing, eating, bathing, and assistance with taking prescribed medications, as specified in Section ~~87606~~ *87578*

(4) Regular observation of the resident's physical and mental condition, as specified in Section ~~87608~~ *87591*

(5) Arrangements to meet health needs, including arranging transportation, as specified in Section ~~87610~~ *87575*

(6) A planned activities program which includes social and recreational activities appropriate to the interests and capabilities of the resident, as specified in Section ~~87612~~ *87579* *1569.30*

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1507~~, ~~1530~~, ~~1531~~, and ~~1560~~, Health and Safety Code; and Section 11006.9, Welfare and Institutions Code.

1569.1, 1569.2
1569.30, 1569.31
1569.312, 1569.313

87577 ~~87602~~ Personal Accommodations and Services.

(a) Living accommodations and grounds shall be related to the facility's function. The facility shall be large enough to provide comfortable living accommodations and privacy for the residents, staff, and others who may reside in the facility. The following provisions shall apply:

(1) There shall be common rooms such as living rooms, dining rooms, dens or other recreation/activity rooms. They shall be of sufficient space and/or separation to promote and facilitate the program of activities and to prevent such activities from interfering with other functions.

(2) Resident bedrooms shall be provided which meet, at a minimum, the following requirements:

(A) Bedrooms shall be large enough to allow for easy passage between and comfortable usage of beds and other required items of furniture specified below, and any resident assistance devices such as wheelchairs or walkers.

(B) No room commonly used for other purposes shall be used as a sleeping room for any resident. This includes any hall, stairway, unfinished attic, garage, storage area, shed or similar detached building.

(C) No bedroom of a resident shall be used as a passageway to another room, bath or toilet.

(D) Not more than two residents shall sleep in a bedroom.

(3) Equipment and supplies necessary for personal care and maintenance of adequate hygiene practice shall be readily available to each resident. The resident may provide the following items; however, if the resident is unable or chooses not to provide them, the licensee shall assure provision of:

(A) A bed for each resident, except that married couples may be provided with one appropriate sized bed. Each bed shall be equipped with good springs, a clean and comfortable mattress, available pillow(s) and lightweight warm bedding. Fillings and covers for mattresses and pillows shall be flame retardant. Rubber sheeting shall be provided when necessary.

(B) Bedroom furniture, which shall include, for each resident, a chair, night stand, a lamp, or lights sufficient for reading, and a chest of drawers.

(C) Clean linen, including blankets, bedspreads, top bed sheets, bottom bed sheets, pillow cases, mattress pads, bath towels, hand towels and wash cloths. The quantity shall be sufficient to permit changing at least once per week or more often when indicated to ensure that clean linen is in use by residents at all times. The linen shall be in good repair. The use of common wash cloths and towels shall be prohibited.

(D) Hygiene items of general use such as soap and toilet paper.

(E) Portable or permanent closets and drawer space in the bedrooms for clothing and personal belongings. A minimum of eight (8) square feet (.743 sq. meters) of drawer space per resident shall be provided.

(F) Basic laundry service (washing, drying, and ironing of personal clothing).

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§ 87604

(Register 82, No. 10—36-22)

(p. 2454.22.31)

(b) Toilets and bathrooms shall be conveniently located. The licensed capacity shall be established based on Section ~~87136~~ and the following: ~~87229~~

(1) At least one toilet and washbasin for each six (6) persons, which include residents, family and personnel.

(2) At least one bathtub or shower for each ten (10) persons, which includes residents, family and live-in personnel.

(c) Individual privacy shall be provided in all toilet, bath and shower areas.

(d) The following space and safety provisions shall apply to all facilities:

(1) Sufficient room shall be available to accommodate persons served in comfort and safety.

(2) The premises shall be maintained in a state of good repair and shall provide a safe and healthful environment.

(3) All persons shall be protected against hazards within the facility through provision of the following:

(A) Protective devices such as nonslip material on rugs.

(B) Information and instruction regarding life protection and other appropriate subjects.

(4) Stairways, inclines, ramps and open porches and areas of potential hazard to residents with poor balance or eyesight shall be made inaccessible to residents unless equipped with sturdy hand railings and unless well-lighted.

(5) Night lights shall be maintained in hallways and passages to nonprivate bathrooms.

(6) All outdoor and indoor passageways and stairways shall be kept free of obstruction.

(7) Fireplaces and open-faced heaters shall be adequately screened.

(e) Facilities providing services to residents who have physical or mental disabilities shall assure the inaccessibility of fishponds, wading pools, hot tubs, swimming pools or similar bodies of water, when not in active use by residents, through fencing, covering or other means.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

87576-87604. Food Service.

(a) The total daily diet shall be of the quality and in the quantity necessary to meet the needs of the residents and shall meet the Recommended Dietary Allowances of the Food and Nutrition Board of the National Research Council. All food shall be selected, stored, prepared and served in a safe and healthful manner.

(b) The following food service requirements shall apply:

(1) Where all food is provided by the facility arrangements shall be made so that each resident has available at least three meals per day. Exceptions may be allowed on weekends and holidays providing the total daily food needs are met. Not more than fifteen (15) hours shall elapse between the third and first meal.

(2) Where meal service within a facility is elective, arrangements shall be made to assure availability of an adequate daily food intake for all residents who, in their admission agreement, elected meal service. If a resident's condition changes so that he is no longer able to cook or purchase his own meals, the admission agreement shall be modified and the resident provided full meal service.

(3) Between-meal nourishment or snacks shall be made available for all

1569.1, 1569.2,
1569.30, 1569.31,
+ 1569.312

(4) Meals on the premises shall be served in a designated dining area suitable for the purpose and residents encouraged to have meals with other residents. Tray service shall be provided in case of temporary need.

(5) Meals shall consist of an appropriate variety of foods and shall be planned with consideration for cultural and religious background and food habits of residents.

(6) In facilities for sixteen (16) persons or more, menus shall be written at least one week in advance and copies of the menus as served shall be dated and kept on file for at least 30 days.

Facilities licensed for less than sixteen (16) residents shall maintain a sample menu in their file. Menus shall be made available for review by the residents or their designated representatives and the licensing agency upon request.

(7) Modified diets prescribed by a resident's physician as a medical necessity shall be provided.

(8) All food shall be of good quality. Commercial foods shall be approved by appropriate federal, state and local authorities. Food in damaged containers shall not be accepted, used or retained.

(9) Procedures which protect the safety, acceptability and nutritive values of food shall be observed in food storage, preparation and service.

(10) Where indicated, food shall be cut, chopped or ground to meet individual needs.

(11) Powdered milk shall not be used as a beverage but may be used in cooking or baking. Raw milk shall not be used. Milk shall be pasteurized.

(12) Except upon written approval by the licensing agency, meat, poultry and meat food products shall be inspected by state or federal authorities. Written evidence of such inspection shall be available for all products not purchased from commercial markets.

(13) Home canned foods shall not be used.

(14) If food is prepared off the facility premises, the preparation source shall meet all applicable requirements for commercial food services. The facility shall have adequate equipment and staff to receive and serve the food and for cleanup, and shall maintain adequate equipment for in-house preparation and service of food in emergencies.

(15) All persons engaged in food preparation and service shall observe personal hygiene and food services sanitation practices which protect the food from contamination.

(16) In facilities licensed for sixteen (16) to forty-nine (49) residents, one person shall be designated who has primary responsibility for food planning, preparation and service. This person shall be provided with appropriate training.

(17) In facilities licensed for fifty (50) or more, and providing three (3) meals per day, a full-time employee qualified by formal training or experience shall be responsible for the operation of the food service. If this person is not a nutritionist, a dietitian, or a home economist, provision shall be made for regular consultation from a person so qualified. The consultation services shall be provided at appropriate times, during at least one meal. A written record of the frequency, nature and duration of the consultant's visits shall be secured from the consultant and kept on file in the facility.

(18) Sufficient food service personnel shall be employed, trained and their working hours scheduled to meet the needs of residents.

(19) There shall be one or more dining rooms or similar areas suitable for serving residents at a meal service, in shifts where appropriate. The dining areas shall be convenient to the kitchen so that food may be served quickly and easily and shall be attractive and promote socialization among the diners.

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(Register 82, No 16—3-6-82)

2454.22.53

(20) The ventilating systems in food preparation areas shall be maintained in working order and shall be operated when food is being prepared. Food preparation equipment shall be placed to provide aisles of sufficient width to permit easy movement of personnel, mobile equipment and supplies.

(21) Freezers of adequate size shall be maintained at a temperature of 0 degree F (-17.7 degree C), and refrigerators of adequate size shall maintain a maximum temperature of 40 degree F (4 degree C). They shall be kept clean and food stored to enable adequate air circulation to maintain the above temperatures.

(22) Adequate space shall be maintained to accommodate equipment, personnel and procedures necessary for proper cleaning and sanitizing of dishes and other utensils.

(23) All readily perishable foods or beverages capable of supporting rapid and progressive growth of micro-organisms which can cause food infections or food intoxications shall be stored in covered containers at appropriate temperatures.

(24) Pesticides and other toxic substances shall not be stored in food storerooms, kitchen areas, or where kitchen equipment or utensils are stored.

(25) Soaps, detergents, cleaning compounds or similar substances shall be stored in areas separate from food supplies.

(26) Supplies of nonperishable foods for a minimum of one week and perishable foods for a minimum of two days shall be maintained on the premises.

(27) All kitchen areas shall be kept clean and free of litter, rodents, vermin and insects.

(28) All food shall be protected against contamination. Contaminated food shall be discarded immediately upon discovery.

(29) All equipment, fixed or mobile, and dishes, shall be kept clean and maintained in good repair and free of breaks, open seams, cracks or chips.

(30) All utensils used for eating and drinking and in preparation of food and drink, shall be cleaned and sanitized after each usage.

(31) Dishes and utensils shall be disinfected.

(A) In facilities using mechanical means, by either maintaining hot water at a minimum temperature of 170 degree F (77 degree C) at the final rinse cycle of dishwashing machines, or by disinfecting as specified in (B) below.

(B) In facilities not using mechanical means, by an alternative comparable method approved by the licensing agency or by the local health department, such as the addition of a sanitation agent to the final rinse water.

(32) Equipment of appropriate size and type shall be provided for the storage, preparation and service of food and for sanitizing utensils and tableware, and shall be well maintained.

(33) Tableware and tables, dishes, and utensils shall be sufficient in quantity to serve the residents.

(34) Adaptive devices shall be provided for self help in eating as needed by residents.

(c) The licensing agency may require the facility to provide written information as to the foods purchased and used over a given period when, based upon documentation, there is reason to believe that the food service requirements are not being met. 1569.30

NOTE: Authority cited Section 1569.30, Health and Safety Code. Reference Sections 1569.30 and 1569.31, Health and Safety Code.

1569.1, 1569.2,
1569.30, 1569.31,
+1569.312

87578-87605. Personal Assistance and Care.

(a) Based on the individual's preadmission appraisal, and subsequent changes to that appraisal, the facility shall provide assistance and care for the resident in those activities of daily living which the resident is unable to do for himself, as specified in Article 26. However, supportive restraints shall not be used in caring for any resident without advance approval by the licensing agency. No other form of restraint shall be allowed.

(1) For purposes of this section supportive restraint means any appliance or device, such as straps, spring release trays, or soft ties, used to support a resident in a bed, chair, or wheelchair, to prevent falling.

(2) Supportive restraints shall be fastened or tied in a manner which permits the restrained resident to release the restraint himself.

(3) The request for prior approval to use supportive restraints shall include a written order of a physician indicating the need for such restraints for each resident. Additional other documentation may be required by the licensing agency in order to evaluate the request.

(4) The approval granted by the licensing agency may contain specific conditions and limitations. **1569.30**

NOTE: Authority cited: Section 1500, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1521, 1530, and 1534, Health and Safety Code.

87591-87608. Observation of the Resident.

The licensee shall regularly observe each resident for changes in physical, mental, emotional and social functioning. Documentation of observation is not required, however, the licensee shall provide appropriate assistance when such observation reveals unmet needs which might require a change in the existing level of service, or possible discharge or transfer to another type of facility. When changes such as unusual weight gains or losses or deterioration of health condition are observed, the licensee shall bring such changes to the attention of the resident's physician and/or other appropriate parties. **1569.30**

NOTE: Authority cited: Section 1500, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1521, 1530, and 1534, Health and Safety Code.

87575-87610. Incidental Medical and Dental Care.

(a) A plan for incidental medical and dental care shall be developed by each facility. The plan shall encourage routine medical and dental care and provide for assistance in obtaining such care, by compliance with the following:

(1) The licensee shall arrange, or assist in arranging, for medical and dental care appropriate to the conditions and needs of residents.

(2) The licensee shall provide assistance in meeting necessary medical and dental needs. This includes transportation which may be limited to the nearest available medical or dental facility which will meet the resident's need. In providing transportation the licensee shall do so directly or make arrangements for this service.

(3) There shall be arrangements for separation and care of residents whose illness requires separation from others.

(4) When residents require prosthetic devices, vision and hearing aids, the staff shall be familiar with the use of these devices, and shall assist such persons with their utilization as needed.

(5) The licensee shall provide for assisting residents with self-administered medications as needed. Facility personnel, except those authorized by law, shall not administer injections but may assist persons with self-administration as needed. Assistance with self-administered medications shall be limited to the following:

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1569.30, 1569.31
+ 1569.312

1569.1, 1569.2,
1569.30, 1569.31
+ 1569.312

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(Register 82, No. 16-34-22)

(p 2454.22.35)

(A) Medications usually prescribed for self-administration which have been authorized by the person's physician.

(B) Medications during an illness determined by a physician to be temporary and minor.

(C) Assistance required because of tremor, failing eyesight and similar conditions.

(6) When requested by the prescribing physician or the licensing agency, a record of dosages of medications which are centrally stored shall be maintained by the facility.

(7) There shall be adequate privacy for first aid treatment of minor injuries and for examination by a physician if required.

(8) If a facility has no medical unit on the grounds, a complete first aid kit shall be maintained and be readily available in a specific location in the facility. The kit shall be a general type approved by the American Red Cross, or shall contain at least the following:

(A) A current edition of a first aid manual approved by the American Red Cross, the American Medical Association or a state or federal health agency.

(B) Sterile first aid dressings.

(C) Bandages or roller bandages.

(D) Scissors.

(E) Tweezers.

(F) Thermometers.

(b) Emergency care requirements shall include the following:

(1) The name, address and telephone number of each resident's physician and dentist shall be readily available.

(2) The name, address and telephone number of each emergency agency to be called in the event of an emergency, including but not limited to the fire department, crisis center or paramedical unit or medical resource, shall be posted in a location visible to both staff and residents.

(3) The name and telephone number of an ambulance service shall be readily available.

(4) Staff providing care shall receive appropriate training in first aid from persons qualified by such agencies as the Red Cross.

(c) The following requirements shall apply to medications which are centrally stored:

(1) Medications shall be centrally stored under the following circumstances:

(A) The preservation of medicines requires refrigeration, if the resident has no private refrigerator.

(B) Any medication is determined by the physician to be hazardous if kept in the personal possession of the person for whom it was prescribed.

(C) Because of physical arrangements and the condition or the habits of other persons in the facility, the medications are determined by either the administrator or by the licensing agency to be a safety hazard to others.

(2) Centrally stored medicines shall be kept in a safe and locked place that is not accessible to persons other than employees responsible for the supervision of the centrally stored medication.

(3) Each container shall carry all of the information specified in (6) (A) through (E) below plus expiration date and number of refills.

(4) All centrally stored medications shall be labeled and maintained in compliance with state and federal laws. No persons other than the dispensing pharmacist shall alter a prescription label.

(5) Each resident's medication shall be stored in its originally received container. No medications shall be transferred between containers.

(6) The licensee shall be responsible for assuring that a record of centrally stored prescription medications for each resident is maintained for at least one year and includes:

- (A) The name of the resident for whom prescribed
- (B) The name of the prescribing physician.
- (C) The drug name, strength and quantity.
- (D) The date filled.
- (E) The prescription number and the name of the issuing pharmacy.
- (F) Instructions, if any, regarding control and custody of the medication.

(d) Prescription medications which are not taken with the resident upon termination of services or which are otherwise to be disposed of shall be destroyed in the facility by the facility administrator and one other adult who is not a resident. Both shall sign a record, to be retained for at least three years, which lists the following:

- (1) Name of the resident.
- (2) The prescription number and the name of the pharmacy.
- (3) The drug name, strength and quantity destroyed.
- (4) The date of destruction.

(e) In all facilities licensed for sixteen (16) persons or more, one or more employees shall be designated as having primary responsibility for assuring that each resident receives needed first aid and needed emergency medical services and for assisting residents as needed with self-administration of medications. The names of the staff employees so responsible and the designated procedures shall be documented and made known to all residents and staff.

NOTE: Authority cited: Section 1500, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1521, 1530, and 1531, Health and Safety Code.

1250, 1569.1, 1569.2,
1569.30, 1569.31,
+ 1569.312

87579-87612: Planned Activities.

(a) Residents shall be encouraged to maintain and develop their fullest potential for independent living through participation in planned activities. The activities made available shall include:

(1) Socialization, achieved through activities such as group discussion and conversation, recreation, arts, crafts, music, and care of pets.

(2) Daily living skills/activities which foster and maintain independent functioning.

(3) Leisure time activities cultivating personal interests and pursuits, and encouraging leisure-time activities with other residents.

(4) Physical activities such as games, sports and exercise which develop and maintain strength, coordination and range of motion.

(5) Education, achieved through special classes or activities.

(6) Provision for free time so residents may engage in activities of their own choosing.

(b) Residents served shall be encouraged to contribute to the planning, preparation, conduct, clean-up and critique of the planned activities.

(c) The licensee shall arrange for utilization of available community resources through contact with organizations and volunteers to promote resident participation in community-centered activities which may include:

(1) Attendance at the place of worship of the resident's choice.

(2) Service activities for the community.

(3) Community events such as concerts, tours and plays.

(4) Participation in community organized group activities, such as senior

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(Register No. 10-36-21)

(p. 2454.22 37)

(d) In facilities licensed for seven (7) or more persons, notices of planned activities shall be posted in a central location readily accessible to residents, relatives, and representatives of placement and referral agencies. Copies shall be retained for at least six (6) months.

(e) In facilities licensed for sixteen (16) to forty-nine (49) persons, one staff member, designated by the administrator, shall have primary responsibility for the organization, conduct and evaluation of planned activities. This person shall have had at least six (6) month's experience in providing planned activities or have completed or be enrolled in an appropriate education or training program.

(f) In facilities licensed for fifty (50) persons or more, one staff member shall have full-time responsibility to organize, conduct and evaluate planned activities, and shall be given such staff assistance as necessary in order for all residents to participate in accordance with their interests and abilities. The program of activities shall be written, planned in advance, kept up-to-date, and made available to all residents. The responsible employee shall have had at least one year of experience in conducting group activities and be knowledgeable in evaluating resident needs, supervising other employees, and in training volunteers.

(1) An exception to this requirement may be made by the licensing agency upon the facility's presentation in writing of a satisfactory alternative plan.

(2) Where the facility can demonstrate that its residents are self-directed to the extent that they are able to plan, organize and conduct the facility's activity program themselves, this requirement may be reduced or waived by the licensing agency.

(g) Participation of volunteers in planned activities shall be encouraged, and such volunteers shall be under the direction and supervision of the employees responsible for the activity program.

(h) Facilities shall provide sufficient space to accommodate both indoor and outdoor activities. Activities shall be encouraged by provision of:

(1) A comfortable, appropriately furnished area such as a living room, available to all residents for their relaxation and for entertaining friends and relatives.

(2) Outdoor activity areas which are easily accessible to residents and protected from traffic. Gardens or yards shall be sufficient in size, comfortable, and appropriately equipped for outdoor use.

(i) Facilities shall provide sufficient equipment and supplies to meet the requirements of the activity program including access to daily newspapers, current magazines and a variety of reading materials. Special equipment and supplies necessary to accommodate physically handicapped persons or other persons with special needs shall be provided as appropriate.

(1) When not in use, recreational equipment and supplies shall be stored where they do not create a hazard to residents.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.30, 1569.31, 1569.312, Health and Safety Code.

1569.1, 1569.2,
1569.30, 1569.31
+1569.312

~~87592-87614~~ Resident Councils.

The facility shall permit the formation of a resident council by interested residents, provide space and post notice for meetings, and provide assistance in attending meetings for those residents who request it. In order to permit a free exchange of ideas, at least part of each meeting shall be allowed to be conducted without the presence of any facility personnel. Residents shall be encouraged, but shall not be compelled to attend. The purpose of such an organization shall be to work with the administration in improving the quality of life for all residents by enriching the activity program and to discuss the services offered by the facility and make recommendations regarding identified problems.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~ and ~~1530~~, Health and Safety Code.

~~Article 8. Admissions Acceptance and Retention~~ OMIT~~87567-87700~~ General.

(a) Prior to accepting a resident for care and in order to evaluate his/her suitability, the facility shall, as specified in this article:

- (1) Conduct an interview with the applicant and his responsible person.
- (2) Perform a pre-admission appraisal.
- (3) Obtain and evaluate a recent medical assessment.
- (4) Execute the admissions agreement.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, ~~1530~~, and ~~1531~~, Health and Safety Code.

~~87582-87702~~ Acceptance and Retention Limitations.

(a) Acceptance or retention of residents by a facility shall be in accordance with the criteria specified in this article.

(b) The following persons may be received into or retained by a Residential Care Facility for the Elderly:

- (1) Persons capable of administering their own medications.
- (2) Persons receiving medical care and treatment outside the facility or who are receiving needed medical care from a visiting nurse.
- (3) Persons who because of forgetfulness or physical limitations need only be reminded or to be assisted to take medication usually prescribed for self-administration.
- (4) Persons with mild problems such as forgetfulness, wandering, confusion, irritability, inability to manage money, etc.
- (5) Persons with mild temporary emotional disturbance resulting from personal loss or change in living arrangement.
- (6) Persons who are under 62 years of age whose needs are compatible with other residents in care, if they require the same amount of care and supervision as do the other residents in the facility.

(c) The following persons shall not be received into, accepted, and retained by a Residential Care Facility for the Elderly:

- (1) Persons with active communicable tuberculosis.
- (2) Persons who require inpatient care in a health facility.
- (3) Persons who are not elderly and who either have needs which are in conflict with the other residents or the program of services offered, or who require more care and supervision than other residents.

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+ 1569.312

1569.1, 1569.2,
1569.30, 1569.31
+ 1569.312

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§ 87706

(p. 2454.22.39)

(Register EL No. 1 - 5-6-82)

(4) Persons whose primary need for care and supervision results from a mental disorder resulting in ongoing behavior which would upset the general resident group, would require a greater amount of care and of care and supervision than the other residents in the facility, or cannot generally benefit from the program of services available in the facility.

(d) A resident suspected of having a contagious or infectious disease shall be isolated, and a physician contacted to determine suitability of the resident's retention in the facility. 1569.30

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, 1502, 1507, 1521, 1530, and 1531, Health and Safety Code.

1250, 1569.1,
1569.2, 1569.30,
1569.31, 1569.312

87583-87704. Pre-admission Appraisal-General.

(a) Prior to admission, the applicant and his/her responsible person, if applicable, shall be interviewed by the person responsible for facility admissions.

(1) Sufficient information about the facility and its services shall be provided to enable all persons involved in the placement to consider the plan fully.

(2) The applicant's desires regarding entrance and his/her background, including any specific service needs, medical background and functional limitations shall be discussed.

(b) No person shall be admitted without his/her consent and agreement, or that of his responsible person, if applicable.

(c) Prior to admission a determination of an applicant's suitability for admission shall be completed and shall include an appraisal of his/her individual service needs in comparison with the admission criteria specified in Section

~~87702~~ 87582

(1) The appraisal shall include, at a minimum, an evaluation of the person's functional capabilities and mental condition, and an evaluation of certain social factors as specified in Sections ~~87706~~ through ~~87710~~ below.

(2) If the initial appraisal or any subsequent reappraisal identifies an individual resident service need which is not being met by the general program of facility services, advice shall be obtained from a physician, social worker, or other appropriate consultant to determine if the needs can be met by the facility. If so the licensee and the consultant shall develop a plan of action which shall include:

(A) Objectives, within a time frame, which relate to the resident's problems and/or unmet needs.

(B) Plans for meeting the objectives.

(C) Identification of any individuals or agencies responsible for implementing each part of the plan.

(D) Method of evaluating progress.

(3) The applicant, or his/her responsible person, if applicable, and any relative(s) participating in the placement shall be involved in the development of the appraisal.

(4) If a needs assessment has already been completed by a placement agency or consultant, this shall be obtained and included in the facilities appraisal.

NOTE: Authority cited: Section ~~1530~~, Health and Safety Code. Reference: Sections ~~1501~~, 1502, 1507, 1530 and 1531, Health and Safety Code.

1569.1, 1569.2,
1569.30, 1569.31
+ 1569.312

87584-87706. Functional Capabilities.

(a) The facility shall assess the person's need for personal assistance and care by determining his/her ability to perform specified activities of daily living. Such activities shall include, but not be limited to:

(1) Bathing, including need for assistance:

- (B) In bathing one or more parts of the body.
- (C) Through use of grab bars.
- (2) Dressing and grooming, including the need for partial or complete assistance.
- (3) Toileting, including the need for:
 - (A) Assistance equipment.
 - (B) Assistance of another person.
- (4) Transferring, including the need for assistance in moving in and out of a bed or chair.
- (5) Continence, including:
 - (A) Bowel and bladder control.
 - (B) Whether assistive devices such as a catheter are used.
- (6) Eating, including the need for:
 - (A) Adaptive devices.
 - (B) Assistance from another person.
- (7) Physical condition, including:
 - (A) Vision.
 - (B) Hearing.
 - (C) Speech.
 - (D) Walking with or without equipment or other assistance.
 - (E) Dietary limitations.
 - (F) Medical history and problems.
 - (G) Need for prescribed medications.

NOTE: Authority cited: Section 1500, Health and Safety Code. Reference: Sections 1501, 1502, 1507, 1530, and 1531, Health and Safety Code.

87585-87708: Mental Condition.

The facility shall determine the amount of supervision necessary by assessing the applicant's mental status to determine if the individual tends to wander, is confused or forgetful, is capable of managing his/her own cash resources, and if he/she actively participates in social activities or is withdrawn.

NOTE: Authority cited: Section 1500, Health and Safety Code. Reference: Sections 1501, 1530, and 1560, Health and Safety Code.

87586-87710: Social Factors.

The facility shall obtain sufficient information about each person's likes and dislikes and interests and activities, to determine if the living arrangements in the facility will be satisfactory, and to suggest the program of activities in which the individual may wish to participate.

NOTE: Authority cited: Section 1500, Health and Safety Code. Reference: Sections 1501, 1530, and 1530, Health and Safety Code.

87589-87712: Medical Assessment.

(a) Prior to a person's acceptance, the licensee shall obtain and keep on file, evidence of a physical examination made within the last year which shall include but not be limited to:

(1) Establishing whether there are findings of communicable tuberculosis, other infectious or contagious diseases or other medical conditions which would preclude care of the person by the facility.

(2) Recording of prior medical services and history and current medical status including but not limited to height, weight, and blood pressure.

(3) Providing a record of current prescribed medications, and an indication of whether the medication should be centrally stored, pursuant to Section

1250, 1569.1,
1569.2, 1569.30,
1569.31, 1569.312,
+ 1569.315

1569.1, 1569.2,
1569.30, 1569.31,
+ 1569.312

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1569.30, 1569.31,
+ 1569.312

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{ 87718

(Register 88, No. 2-1-9-88)

(p. 2454.21 4)

(4) Identifying physical limitations of the person to determine his/her capability to participate in the programs provided by the licensee, including any medically necessary diet limitations.

(5) Making a determination of the person's ability to ambulate without assistance as defined by Section ~~8700(a)(3)~~ ^{87101(a)(3)}.

(6) Providing information applicable to the pre-admission appraisal specified in Section ~~87704~~ ⁸⁷⁵⁸³.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}, Health and Safety Code. Reference: Sections ~~1501~~ ^{1569.1, 1569.2, 1569.30, 1569.31, 1569.312, and 1569.315}, ~~1530~~ ^{1569.30}, and ~~1531~~ ^{1569.312, and 1569.315}, Health and Safety Code.

87587-87714. Reappraisal.

(a) The pre-admission appraisal shall be updated, in writing as frequently as necessary to note significant changes and to keep the appraisal accurate. The reappraisals shall document changes in the resident's physical, mental and/or social condition. Significant changes shall include but not be limited to:

(1) A physical trauma such as a heart attack or stroke.

(2) A mental/social trauma such as the loss of a loved one.

(b) The licensee shall immediately bring any such changes to the attention of the resident's physician and his family or responsible person.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}, Health and Safety Code. Reference: Sections ~~1501~~ ^{1569.1, 1569.2, 1569.30, 1569.31, 1569.312, and 1569.315}, ~~1530~~ ^{1569.30}, and ~~1531~~ ^{1569.312, and 1569.315}, Health and Safety Code.

87588-87716. Documentation and Support.

Each facility shall document in writing the findings of the pre-admission appraisal and any reappraisal or assessment which was necessary in accordance with Sections ~~87704~~ and ~~87714~~. If supporting documentation from a physician is required, this input shall also be obtained and may be the same assessment as required in Section ~~87710~~ ⁸⁷⁵⁶⁹.

NOTE: Authority cited: Section ~~1530~~ ^{1569.30}, Health and Safety Code. Reference: Sections ~~1501~~ ^{1569.1, 1569.2, 1569.30, 1569.31, 1569.312, and 1569.315}, ~~1530~~ ^{1569.30}, and ~~1531~~ ^{1569.312, and 1569.315}, Health and Safety Code.

87568-87718. Admission Agreements.

(a) The licensee shall complete and maintain individual written admission agreements with all persons admitted to the facility or with their designated representatives.

(b) Agreements shall specify the following:

(1) Basic services to be made available.

(2) Optional services which are available.

(3) Payment provisions, including the following:

(A) Basic services rate, including any exempt-income-allowance, if the resident agrees to such charge.

(B) Optional services costs.

(C) Payor.

(D) Due date.

(E) Funding source, provided that the resident may refuse to disclose such source.

(4) Modification conditions, including requirement for provision of at least 30 days prior written notice to the resident of any basic rate change, or for SSI/SSP rate changes, as soon as the facility is notified.

(A) Agreements involving persons whose care is funded at government-prescribed rates may specify that operative dates of government modifications shall be considered operative dates for basic service rate modifications.

(5) Refund conditions.

(6) That the department or licensing agency has the authority to examine residents' records as a part of their evaluation of the facility.

(7) General facility policies which are for the purpose of making it possible for residents to live together.

(8) Those actions, circumstances, or conditions specified in Section ~~87720~~⁸⁷⁵⁸⁹ which may result in the resident's eviction from the facility. Except for general facility policies developed pursuant to Section ~~87720(a)(3)~~, the eviction provisions shall not be modified.

(9) The facility's policy concerning family visits and other communication with residents, pursuant to Health and Safety Code Section 1569.313.

(10) Other conditions under which the agreement may be terminated.

(c) If additional services are available through the facility to be purchased by the residents, such as cosmetology, and these are not specified in the admission agreement, a list of these services and charges shall be posted in a location accessible to residents.

(d) Such agreements shall be dated and signed by the person admitted and the licensee, or by their responsible person, no later than 7 days following admission. Attachments to the agreement may be utilized as long as they are also dated and signed.

(e) The licensee shall retain the agreement originals and shall provide copies to the person admitted, or to their responsible person, to placement agencies, when appropriate, and to the resident's relatives who assisted with the placement.

(f) The licensee shall comply with all terms and conditions set forth in the admission agreement. No written or oral contract with any other person shall release the licensee from responsibility for provision of safe and healthful facilities, equipment, and accommodations.

(g) The agreement shall be automatically terminated by the death of the resident, whose relatives shall not be liable for any payment beyond that due at the date of death, unless agreed to in writing or ordered by the court.

(h) No licensee shall enter into any life care contract with any person without approval by the Department in accordance with Chapter 5 of these regulations.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1569.1, 1569.2, 1569.30, 1569.31, 1569.313 and 1770 et seq., Health and Safety Code.

HISTORY:

1569.312

1. Amendment of subsection (b) filed 12-30-87; operative 1-29-88 (Register 88, No. 2).

~~87589-87720~~ Eviction Procedures.

(a) The licensee may, upon thirty (30) days written notice to the resident, evict the resident for one or more of the following reasons:

(1) Nonpayment of the rate for basic services within ten days of the due date.

(2) Failure of the resident to comply with state or local law after receiving written notice of the alleged violation.

(3) Failure of the resident to comply with general policies of the facility. Said general policies must be in writing, must be for the purpose of making it possible for residents to live together and must, be made part of the admission agreement.

87587 87714 (4) If, after admission, it is determined that the resident has a need not previously identified and a reappraisal has been conducted pursuant to Section 87714, and the licensee and the person who performs the reappraisal believe that the facility is not appropriate for the resident.

(5) Change of use of the facility.

(b) The licensee may, upon obtaining prior written approval from the licensing agency, evict the resident upon three (3) days written notice to quit. The licensing agency may grant approval for the eviction upon a finding of good cause. Good cause exists if the resident is engaging in behavior which is a threat to the mental and/or physical health or safety of himself or to the mental and/or physical health or safety of others in the facility.

(c) The licensee shall, in addition to either serving thirty (30) days notice or seeking approval from the Department and serving three (3) days notice on the resident, notify or mail a copy of the notice to quit to the resident's responsible person.

(d) The licensee shall set forth in the notice to quit the reasons relied upon for the eviction with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons.

(e) Upon the request of a resident, or his/her designated representative, the Department shall, pursuant to the provisions of Section 1569.35 of the Health and Safety Code, investigate the reasons given for the eviction.

(f) A written report of any eviction shall be sent to the licensing agency within five (5) days.

(g) This section shall not apply to a particular resident who has entered into a life care contract with a facility pursuant to Chapter 5 of these regulations.

(h) Nothing in this section is intended to preclude the licensee or resident from invoking any other available remedy.

NOTE: Authority cited: Section 1569.30, Health and Safety Code. Reference: Sections 1530, 1531, and 1770, et seq., Health and Safety Code.

1569.1, 1569.2,
1569.30,
1569.31,
1569.312,
1569.315

COMMUNITY CARE FACILITIES

TITLE 22

(p. 2454.22.44)

(Register 88, No. 2—1-9-88)

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED
In this office of the Secretary of State
of the State of California

NOV 17 1988
At 4:25 o'clock P. M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1019-02

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

11/17/88
Date

FACE SHEET

(See Instructions on Reverse)

RDB #0587-23

1988 OCT 21 AM 10:48

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

NOV 18 1988

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

10-18-88

FILED
In this office of the Secretary of State
of the State of California

NOV 18 1988

At 3:45 o'clock P.M.

MARCH FONG EU, Secretary of State

By Emille Luy

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)
Rosalie Clark Chief, Regulations Development Bureau
TELEPHONE 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED:
SECTIONS AMENDED:
80018, 87018, 87402
SECTIONS REPEALED:
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
October 30, 1987
b. DATE OF FINAL AGENCY ACTION
October 18, 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88
Date

(1) Amend Section 80018 (c) to read:

80018 APPLICATION FOR LICENSE (Continued)

80018

(c) The application and supporting documents shall contain the following: (Continued)

(4) Procedures as required pursuant to Section 1524.5 of the Health and Safety Code.

(A) Health and Safety Code Section 1524.5 provides:

(a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee, is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.

(b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee or person designated by the owner or licensee will be present.

(c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

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(<u>910</u>)	(Continued)
(<u>1011</u>)	(Continued)
(<u>1112</u>)	(Continued)
(<u>1213</u>)	(Continued)
(<u>1314</u>)	(Continued)
(<u>1415</u>)	(Continued)
(<u>1516</u>)	(Continued)
(<u>1617</u>)	(Continued)
(<u>1718</u>)	(Continued)

Authority Cited: Section 1530, Health and Safety Code.

Reference: Sections 1501, 1520, 1522, 1523, 1524.5, 1528,
1531, and 1560, Health and Safety Code.

(2) Amend Section 87018(c) to read:

87018 APPLICATION FOR LICENSE (Continued)

87018

(c) The application and supporting documents shall contain the following: (Continued)

(3) Procedures as required pursuant to Section 1524.5 of the Health and Safety Code.

(A) Health and Safety Code Section 1524.5 provides:

- (a) In addition to any other requirements of this chapter, any community care facility providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.
- (b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee or person designated by the owner or licensee will be present.
- (c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

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(910) (Continued)
(1011) (Continued)
(1112) (Continued)
(1213) (Continued)

Authority Cited: Sections 1530 and 1530.5, Health and Safety Code.

Reference: Section 1501, 1520, 1524.5, and 1531, Health and Safety Code.

(3) Amend Section 87402(a) to read:

87402 APPLICATION FOR LICENSE (Continued)

87402

(a) (Continued)

(5) Procedures as required pursuant to Section 1569.175 of the Health and Safety Code.

(A) Health and Safety Code Section 1569.175 provides:

- (a) In addition to any other requirements of this chapter, any residential care facility for the elderly providing residential care for six or fewer persons at which the owner does not reside shall provide a procedure approved by the licensing agency for immediate response to incidents and complaints. This procedure shall include a method of assuring that the owner, licensee, or person designated by the owner or licensee is notified of the incident, that the owner, licensee, or person designated by the owner or licensee has personally investigated the matter, and that the person making the complaint or reporting the incident has received a response of action taken or a reason why no action needs to be taken.
- (b) In order to assure the opportunity for complaints to be made directly to the owner, licensee, or person designated by the owner or licensee, and to provide the opportunity for the owner, licensee, or person designated by the owner or licensee to meet residents and learn of problems in the neighborhood, any facility with a nonresident owner shall establish a fixed time on a weekly basis when the owner, licensee, or person designated by the owner or licensee will be present.
- (c) Facilities with nonresident owners shall establish procedures to comply with the requirements of this section on or before July 1, 1987.

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(+617) (Continued)
(+718) (Continued)

Authority Cited: Section 1569.30, and 1569.18 Health and Safety Code.

Reference: Sections 1569.1, 1569.2, 1569.5, 1569.10, 1569.15, 1569.151, 1569.16, 1569.17, 1569.175, 1569.18, 1569.19, 1569.20, 1569.21, 1569.22, 1569.23, 1569.24, 1569.30, 1569.312, 1569.45, 1569.60, and 1569.62, Health and Safety Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In this office of the Secretary of State
of the State of California

NOV 18 1988

At 3:45 o'clock P.

MARCH FONG EU, Secretary of State

By Smella
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1021-02


LINDA STOCKDALE BREWER
DIRECTOR

11/18/88
Date

FACE SHEET

FOR FILING ADMINISTRATIVE REGULATIONS WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

EMERGENCY

FILED

In this office of the Secretary of State
of the State of California

NOV 28 1988

At 4:30 o'clock P. M.

MARCH FONG EU, Secretary of State

By Mella Gray
Deputy Secretary of State

State Department of Social Services

(AGENCY)

L. L. S. McNeil

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: November 15, 1988

1988 NOV 18 AM 10:46
OFFICE OF
ADMINISTRATIVE LAW
ENDORSED
APPROVED FOR FILING
NOV 28 1988

For use of Office of Adm Law

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief

Regulations Development

(916) 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED: 63-082

SECTIONS AMENDED: 63-502.2

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____ (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

- b. DATE OF FINAL AGENCY ACTION OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
- November 15, 1988

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State. December 1, 1988
- c. ☐ Effective on _____ as required or allowed by the following statute(s):
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

63-082 IMPLEMENTATION OF CHARITABLE DONATIONS
REQUIREMENTS

.1 The amended provision in Section 63-082.2 shall be implemented as follows:

.11 Effective December 1, 1988, the CWDs shall implement the amended provision for all new food stamp applications and continuing cases.

.12 In accordance with 7 CFR 272.1(g)(98), benefits shall be restored to entitled households at the time of recertification, upon the request of the household, or when the CWD otherwise becomes aware that benefits should be restored. Restored benefits are to be provided back to the date of application or February 1, 1988, whichever occurred later. Restoration shall be made in accordance with Section 53-802 except that the twelve-month limit for restoring benefits shall not apply.

.2 The section affected by this revision is 63-502.2(c) through (1).

Authority Cited: Sections 10553, 10554 and 18904 of the Welfare and Institutions Code.

Reference: Sections ^{18901 and} 18904 of the Welfare and Institutions Code, and 7 CFR 272.1(q)(98).

Amend Section 63-502.2(c) to read:

Renumber Sections 63-502.2(c) through (k) to (d) through (l).

63-502 INCOME, EXCLUSIONS AND DEDUCTIONS (Continued) 63-502

.2 Income Exclusions. Only the following items shall be excluded from household income:

(a) Continued

(b) Continued

(c) Cash donations received from one or more private, nonprofit charitable organizations not to exceed \$300 in a quarter

(~~e~~d) Continued

(~~d~~e) Continued

(~~e~~f) Continued

(~~f~~g) Continued

(~~g~~h) Continued

(~~h~~i) Continued

(~~i~~j) Continued

(~~j~~k) Continued

(~~k~~l) Continued

Authority Cited: Sections 10553, 10554 and 18904 of the Welfare and Institutions Code.

Reference: ^{Section 18901 of the Welfare and Institutions Code and}
7 CFR 273.9(c)(2).

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In this office of the Secretary of State
of the State of California

NOV 28 1988

At 4:30 o'clock P.M.

MARCH FONG EU, Secretary of State

By Linda H.
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-1118-01 E


for LINDA STOCKDALE BREWER
DIRECTOR

11/28/88
Date

FACE SHEET

(See Instructions on Reverse)

RDB# 1287-60

1988 NOV -1 PM 5:14
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 01 1988

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulation adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

10-27-88

FILED

In this office of the Secretary of State
of the State of California

DEC 01 1988

At 4:45 o'clock P.M.

MARCH FONG EU, Secretary of State

By Annella King
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
ROSALIE CLARK, Chief, Regulations Development Bureau (916) 445-0313
2. Type of filing, (check one) ☒ 30-day Review ☐ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title 22
SECTIONS ADOPTED:
35179
SECTIONS AMENDED: MPP 45-802.11 35335(a)(2), 35369(a)(4)(B)(2)(i), 35381(a)(3)
35207(a)(1)(B)(K) and (M), 35215(a), 35227(a)(4) and (5), 35325(a)(1)(A) and (C),
SECTIONS REPEALED:
35000 (mm)
- b. The following sections listed in 3a contain modifications to the text originally made available to the public:
35179(b)(2), 35207, 35215, 35227, 35335, and 35381
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
March 4, 1988
b. DATE OF FINAL AGENCY ACTION
October 27, 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
September 15, 1988 to October 3, 1988
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☒ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

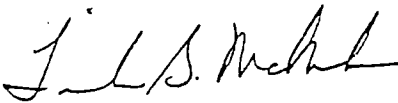
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

FINAL STATEMENT OF REASONS

a) Description of Public Problem, Administrative Requirement or Other Condition or Circumstance the Regulations are Intended to Address

These regulations are proposed as necessary to implement, interpret and make specific the provisions and intent of AB 1454 chapter 360 of the Statutes of 1987, AB 1004, Chapter 978 of the Statutes of 1981 and 42 USC 673(a)(1)(5). AB 1454 eliminates the interlocutory decree from the adoptions process and allows Adoptions Assistance Program (AAP) support payments to begin immediately after an adoption assistance agreement and an adoptive placement agreement have been signed. AB 1004, Chapter 978, requires the department or licensed adoption agency to provide all prospective adoptive parents, at the time of application for the adoption of a special needs child, written information on the availability of AAP benefits, with an explanation of the difference between these benefits and foster care payments. Federal Law at 42 USC 673(a)(1)(5) has been changed to eliminate the requirement for an interlocutory decree of adoption. Individuals with whom a child is placed for adoption are now eligible for adoption assistance payments.

(b) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are NecessarySection 45-802.11 - HandbookSpecific Purpose:

This handbook section is necessary to amend MPP Section 45-802.11 to include amendments to Welfare and Institutions Code 16120 made in AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

This handbook section is necessary to amend MPP Section 45-802.11 to include amendments to Welfare and Institutions Code 16120 made in AB 1454 (Chapter 360, Statutes of 1987).

Section 704100 35000(mm)

Specific Purpose:

Section 704100 35000(mm) provided a regulatory definition for interlocutory decree of adoption.

Factual Basis:

This definition is no longer necessary because AB 1454 (Chapter 360, Statutes of 1987) deletes all reference to the interlocutory decree of adoption as required by Public Law 96-272. Therefore, the definition of Interlocutory Decree of Adoption is being repealed.

Section 704505/221 and 222 35179

Specific Purpose:

These sections require the Department or licensed adoption agencies to provide prospective adoptive parents, at the time of application, with written information on the Adoption Assistance Program as authorized by AB 1004 (Chapter 978, Statutes of 1987).

Factual Basis:

Subchapter 5, Article 5 requires a written application to be completed by the prospective adoptive parents. AB 1004 (Chapter 978, Statutes of 1987) requires the Department or licensed adoption agency to provide all prospective adoptive parents with information, in writing, on Adoption Assistance Program benefits. Failure to add this regulation and handbook section would result in inconsistencies in the information provided to prospective adoptive parents.

Section 704307/ 511(B) 35207(B)

Specific Purpose:

Section 35207 deletes reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35207 requires the agency to retain custody of the child who has been placed for adoption and to supervise the adoptive placement until the granting of either an interlocutory or a final decree of adoption. AB 1454 (Chapter 360, Statutes of 1987) amends Civil Code Section 224n to delete all reference to the interlocutory decree of

adoption. The Department has correspondingly amended Section 35207 to delete the reference to the interlocutory decree of adoption. Failure to so amend this Section would leave the Department's adoption program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

Section 704507.51(k) 35207(B)1. and 2.- Handbook

Specific Purpose:

These handbook sections amend existing language to include amendments made to Civil Code Section 224n in AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

These handbook sections are necessary to amend existing language to include amendments made to Civil Code Section 224n in AB 1454 (Chapter 360, Statutes of 1987).

Section 704507.51 35207(k)

Specific Purpose:

Section 35207(k) is amended to delete reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35207(k) requires the agency to retain custody of the child who has been placed for adoption and to supervise the adoptive placement until the granting of either an interlocutory or a final decree of adoption. AB 1454 (Chapter 360, Statutes of 1987) amended Civil Code Section 224n to delete all reference to the interlocutory decree of adoption. Failure to so amend this Section 70-507.51(k) would leave the Department's adoption program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

Section 704507.51 35207(m)

Specific Purpose:

Section 35207(m) is amended to delete reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35207 gives prospective adoptive parents the right to terminate an adoptive placement and return the child to the agency at any time prior to the granting of an interlocutory or a final decree of adoption. AB 1454 (Chapter 360, Statutes of 1987) amended Civil Code Section 224n to delete all reference to the interlocutory decree of adoption. Failure to so amend this would leave the Department's adoption program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

Section 70430811 35215(a)

Specific Purpose:

Section 35215(a) deletes reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35215(a) requires the agency to supervise the adoptive placement of a child unless an interlocutory decree of adoption is in effect. AB 1454 (Chapter 360, Statutes of 1987) amended Civil Code Section 224n to delete all reference to the interlocutory decree of adoption. The Department has correspondingly amended MPP Section 35215(a) to delete all reference to the interlocutory decree of adoption. Failure to so amend Section 35215(a) would leave the Department's adoption program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

Sections 704308174 and 175 + Handbook 35227(a)(4) and (5)

Specific Purpose:

These sections are amended to delete reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

The amendments to Sections 35227(a)(4) and (5) are necessary to delete reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Sections ~~704701111~~ 35325(1)(A and (C) - Handbook

Specific Purpose:

These handbook sections amend existing language to include amendments to Welfare and Institutions Code Section 16120 made in AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

The amendments to handbook sections 35325(1)(A) and (C) are necessary to include amendments to Welfare and Institutions Code Section 16120 made in AB 1454 (Chapter 360, Statutes of 1987).

Section ~~704703112~~ 35335(a)(2)

Specific Purpose:

Section 35335(a)(2) was amended to delete reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35335(a)(2) requires an agency to provide Adoption Assistance payment after the interlocutory decree of adoption is in effect. AB 1454 (Chapter 360, Statutes of 1987) amended Civil Code Section 224n to delete all reference to the interlocutory decree of adoption. Failure to amend this section would leave the Department's adoption program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

Section ~~7048041242~~ ~~808111~~ 35369(a)(4)(B)2.(i)

Specific Purpose:

Section 35369(a)(4)(B)2.(i) was amended to delete reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35369(a)(4)(B)2.(i) requires the return of a child within seven calendar days after the birth parent's request unless there is an interlocutory decree, in which case, the

request must be brought to the attention of the court immediately. AB 1454 (Chapter 360, Statutes of 1987) amended Civil Code Section 224n to delete all reference to the interlocutory decree of adoption. The Department has correspondingly amended this section to delete all reference to the interlocutory decree of adoption. Failure to amend this regulation would leave the Department's Adoptions program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

Section ~~704807113~~ 35381(a)(3)

Specific Purpose:

Section 35381(a)(3) was repealed to delete the reference to the interlocutory decree of adoption as authorized by AB 1454 (Chapter 360, Statutes of 1987).

Factual Basis:

Section 35381(a)(3) required agencies to notify the court immediately in cases where the birth parent requests a rescission of the relinquishment or reclaims the child in cases where an interlocutory decree of adoption is in effect. AB 1454 (Chapter 360, Statutes of 1987) amended Civil Code Section 224n to delete all reference to the interlocutory decree of adoption. The Department has correspondingly repealed this regulation to delete all reference to the interlocutory decree of adoption. Failure to delete this regulation would leave the Department's Adoptions program regulations with an erroneous, inconsistent and misleading reference to the interlocutory decree of adoption.

- c) Identification of Documents Upon Which Department is Relying
1. Assembly Bill (AB) 1454, Chapter 360, of the Statutes of 1987.
 2. Assembly Bill (AB) 1004, Chapter 978, of the Statutes of 1987.
- d) Testimony and Response

These Adoption Program Regulations were considered at public hearing on April 20, 1988. No written or oral comments were received at the public hearing. The Department received written comments from the California Children's Lobby (Sacramento office) and the County of Sacramento Department of Social Services during the forty-five-day comment period. A summary of the comments received and the Department's responses to these comments were as follows. Because these regulations were renumbered after public hearing to conform to the California Code of Regulations format, the original

Manual of Policies and Procedures (MPP) section numbers appear in strike-out format to make it easier for the reader to follow the testimony.

Section ~~704808~~ 35179

Comment:

The California Children's Lobby felt that the regulations as written provide too narrow an interpretation of Section 16119 of the Welfare and Institutions Code. This group made the following comments and recommendations.

"The narrow interpretation of this Section in the proposed regulations will unnecessarily restrict the information flow to prospective adoptive parents and will not result in the optimum level of communication between adoption agencies and prospective adoptive parents.

In order to fully implement Section 16119, and thus maximize the number of special needs children who are adopted, the Lobby recommends the following information be provided in addition to that contained in the proposed regulations:

- I. All prospective adoptive parents (not just those applying for a special needs child) should be provided with information about the availability of special needs children and the existence of the Adoption Assistance Program at all the following times:
 - A. At time of inquiry about adoption.
 - B. At time of application.
 - C. When a social worker presents a child to a family.
 - D. At time of placement."

Response:

Welfare and Institutions Code Section 16119 as amended requires specifically that prospective adoptive parents of special needs children be given information, in writing, on the Adoption Assistance Program at the time an application for adoption is filed.

Currently adoptions caseworkers are required by Department of Social Services Manual of Policies and Procedures Section 35009 to inform the public of the availability of special needs children for adoption and Adoption Assistance Program subsidy. In addition, a comprehensive brochure which fully explains the Adoption Assistance Program is given to prospective adoptive parents at their initial inquiry into the adoption of a special needs child. When a child is placed an adoption assistance agreement can be signed which stipulates that Adoption Assistance Program payments will

begin immediately or deferred until the time assistance is actually needed. The California's Waiting Children photolisting album is presented to prospective adoptive parents which includes special needs children with a notation that AAP is available for specific children. Therefore, no revision has been made to this section in response to testimony.

Comment:

"II. The information provided should include the following:

- A. The fact that special needs children are available for adoption and what the characteristics are that qualify a child as special needs.
- B. The fact that Adoption Assistance benefits are available to families adopting a special needs child, and that the child's status determines eligibility for Adoption Assistance, not the adoptive parent's circumstances.
- C. It should be emphasized that although the prospective family's financial resources, including income, are considered when determining the amount of AAP payment, that income alone shall not be used to determine the amount of payment; the needs of the child shall also be considered.
- D. The length of time Adoption Assistance is available and what factors are considered in recertifying a family to continue to receive Adoption Assistance benefits."

Response:

All of the information suggested in this testimony is currently included in Department of Social Services Manual of Policies and Procedures. Section 35013 requires agencies to inform the public regarding the availability of special needs children who need adoptive homes. Section 35325 explains the criteria for eligibility for Adoption Assistance Program benefits to special needs children. Section 35333(a)(2)(A) specifies resources available to prospective adoptive parents which are considered when determining the payment amount and 35333(a)(2)(B) clarifies that the payment amount is based on each child's special needs and resources of the family. Section 35343 explains the recertification process and Section 35333 covers the process in determining the duration of payments. Therefore, no revision has been made to this section in response to testimony.

Comment:

Sacramento County submitted the general comment that no time limits are established for the final adoption once the adoption agreement has been signed. The county stated that "that situation created problems with the previous AAC program"... and that "...in some instances, the potential parent moved out of the country without obtaining the final adoption approval."

Response:

AB 1004, Chapter 978 nor any other statute requires the Department of Social Services to establish time limits for the final adoption after an adoption assistance agreement has been signed. The Department chooses not to set time limits for agencies to meet in finalizing adoptions because of the many situations where agencies have no control to expedite the process. The Department's Legal Division does not know of a single case where the prospective adoptive parents moved out of the county without obtaining a final adoption approval. Therefore, no revision has been made to this section in response to testimony.

Section 704308.3 35179

Comment:

Section 704308.3 35179 specifies the language that must be provided at the time of application to the prospective adoptive parent explaining the differences between foster care payments and adoption assistance benefits. Sacramento County submitted the following comments:

"The chart does not cover a comparison of the special needs for the child. Some examples of special needs are costs for special schooling and/or training, costs for exceptional medical transportation and costs for medical or psychiatric treatment not covered by Medi-Cal.

The chart needs to address one major area of importance: treatment of the AAP funds. Our records indicate many families who receive AAP either (a) get AFDC at the same time the AAP is approved; or (b) get AFDC at some later date. Therefore, we suggest the following addition:

Foster Care Payments

When the Foster Care provider's family gets AFDC, the Foster Care payments will NOT be considered income."

AAP Benefits

When the AAP potential parent's family gets AFDC, the AAP benefits will be considered income.

Response:

This regulation was written without any attempt to specify all the special needs of children which may qualify for AAP benefits because the Department felt that it would be too cumbersome and virtually impossible to list all special needs of children in the regulations. Also, since special needs may be determined by other state or federal agencies, the Department's regulations would risk precluding or omitting some legitimate special needs.

However, the Department did amend this regulation section to include the county's suggested language for the treatment of Adoption Assistance Program benefits.

Foster Care Payments

When the foster care provider's family receives AFDC-FG/U, the foster care payments will not be considered income to the family.

AAP Benefits

When the special needs child's adoptive parents receive AFDC-FG/U, the AAP benefits will be considered income to the family.

Section ~~70-701.11(b)~~ 35325

Comment:

Subsection 70-701.11 specifies that certain conditions must be met in order for Adoption Assistance Program benefits to be provided on behalf of special needs children. Subitem (b) specifies conditions relative to the child's characteristics which must be met. Sacramento County commented that this section "does not correctly discuss all the situations where there could be eligibility for AAP. Therefore we suggest the following additional wording in another section or in narrative format to this section:

- A. The child has not been accepted for adoption and is now over age 3.
- B. The child has minority status.
- C. There are 2 or more siblings which need to be adopted as a group to prevent their separation.
- D. The adoptive parent's financial situation indicates adoption would create a financial hardship."

Response:

Existing regulations in Section 35325 define the conditions for Adoption Assistance Program benefits as those stated in

Welfare and Institutions Code Section 16120. The Department did not agree with the recommendation that a restatement of AAP eligibility criteria should be added to this section. Therefore, no revision has been made to this section in response to testimony.

Section ~~70-701~~ 35325

Comment:

Section 70-701 provides the subject line for the AAP Eligibility requirements specified within the section. Sacramento County submitted the following comment which seemed to indicate that the subject line for Section 70-701 should cross-reference the Adoption Assistance Program requirements contained in MPP Division 45, Section 801. The county submitted the following comment:

"70-701 This section needs a cross-reference to the 45-801 Adoption Assistance Program (AAP) section."

Response:

The Department did not agree with the recommendation that Section 70-701 should cross-reference Section 45-801 since both sections restate the Welfare and Institutions Code Section 16120 as it is written. There is no additional information in either section that would necessitate a cross-reference. Therefore, no revision has been made to this section in response to testimony.

e) Local Mandate Statement

These regulations do not constitute a mandate to local government or to any school district. Welfare and Institutions Code Section 16100 provides that adoption services may be provided by a licensed county agency. Health and Safety Code Section 1500 et seq., requires private adoption agencies to obtain a license prior to providing adoption services. Therefore, there are no costs associated with these regulations which require reimbursement pursuant to any California Law.

f) Statement of Potential Cost Impact on Public Agencies, Private Persons or Entities Directly Affected

The Department of Social Services has determined that these regulations will have no fiscal impact on public agencies, Private persons or entities directly affected.

g) Small Business Impact Statement

The Department of Social Services has determine that these regulations will have no fiscal impact on small businesses.

h) 15-Day Renotice Statement

The Department amended Section ~~70-303.1~~ 35179, based on comments received from Sacramento County, by adding more information to be provided to adoptive applicants regarding the treatment of foster care and AAP benefits. This change may be considered substantive for the purpose of the 15-day renotice required by the Government Code. The 15-day renotice period commenced on September 15, 1988 and ended on October 3, 1988.

Amend Section 45-802.11 to read:

45-802 AAP ELIGIBILITY

45-802

- .11 For purposes of state AAP the agency shall have determined that the child is ~~hard-to-place as a special needs child~~ as specified in Title 22, Section 30667 and that the conditions specified in Welfare and Institutions Code Section 16120(a), (b), (c), (d) and (e) are met.

HANDBOOK

- .111 Welfare and Institutions Code Section 16120 states in pertinent part:

"Welfare and Institutions Code Section 16120: Adoption Assistance Program benefits shall be provided only on behalf of special needs children for whom all of the following conditions are met:

- (a) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.
- (b) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.
- (c) The adoptive family is responsible for the child pursuant to the terms of an adoptive placement agreement or a final decree of adoption and have signed an adoption assistance agreement.
- (d) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.

(e) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 224 of the Civil Code.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 10120(a) of the Welfare and Institutions Code

Amend Section 35000(mm) to read:

35000 DEFINITIONS

35000

(mm) "Interlocutory Decree of Adoption" means a court order used in AAP granting legal custody of the child to the petitioners prior to the final decree of adoption.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 16119 of the Welfare and Institutions Code.

Adopt Section 35179 to read:

35179 INFORMATION ON AAP AND FOSTER CARE BENEFITS 35179

- (a) The agency shall provide information as required by Welfare and Institutions Code Section 16119.

HANDBOOK

- (1) Welfare and Institutions Code Section 16119 states, in pertinent part:

"At the time application for adoption of a special needs child is made, the department or the licensed adoption agency, whichever is appropriate, shall provide the prospective adoptive family with information, in writing, on the availability of Adoption Assistance Program benefits, with an explanation of the difference between these benefits and foster care payments."

- (2) The following information shall be included in this explanation:

- (A) Adoption assistance, including financial assistance and Medi-Cal benefits, is available to families who adopt children whose special needs prevent them from being adopted without assistance.

- (B) There are significant differences between adoption assistance and foster care as shown in the following chart:

Foster Care

Payments based on child's age and, in some cases, disability.

Family resources and circumstances not considered in

Adoption Assistance

Payments based on child's needs and family's circumstances.

The maximum payment is the state-approved foster care payment the child would have received if not adopted.

Family resources and circumstances are considered in determining

determining payment
amount.

Health care provided
by Medi-Cal.

When the foster care
provider
receives AFDC-FG/U,
the foster care payments
will not be considered
income to the family.

payment amount.

Child eligible for Medi-Cal
although family's health
insurance must be used
first.

When the special needs
child's adoptive parents
receive AFDC-FG/U,
the AAP benefits will be
considered income to the
family.

Authority Cited: Sections 10553 and 10554 of the Welfare and
Institutions Code.

Reference: Section 16119 of the Welfare and Institutions
Code.

Amend Sections 35207(B), (B)1. and 2. to read:

35207 ADOPTIVE PLACEMENT AGREEMENT

35207

(a)(1) (Continued)

- (B) The agency's responsibility to retain custody of the child and to supervise the adoptive placement until the granting of either an interlocutory or the final decree of adoption in accordance with Civil Code Section 224n(a).

HANDBOOK

- (1) Civil Code Section 224n(a) reads as follows:

"Civil Code Section 224n(a): The department or licensed adoption agency to which a child has been freed for adoption by either relinquishment or termination of parental rights shall be responsible for the care of the child, and shall be entitled to the exclusive custody and control of the child until either an interlocutory decree of adoption or a final decree of adoption has been granted. Any placement for temporary care, or for adoption made by the department or a licensed adoption agency, may be terminated at its discretion at any time prior to the granting of an interlocutory decree of adoption or a final decree of adoption. In the event of termination of any placement for temporary care or for adoption, the child shall be returned promptly to the physical custody of the agency.

No petition may be filed to adopt a child relinquished to the department or a licensed adoption agency or a child declared free from the custody and control of either or both of his or her parents and referred to the department or a licensed adoption agency for adoptive placement, except by the prospective adoptive parents with whom the child has been placed for adoption by the department or licensed

adoption agency. After the petition for adoption has been filed, the department or licensed adoption agency may remove the child from the prospective adoptive parents only with the approval of the court, upon motion by the department or a licensed adoption agency after notice to the prospective adoptive parents, supported by an affidavit or affidavits stating the grounds on which removal is sought. If the department or a licensed adoption agency refuses to consent to the adoption of a child by the person or persons with whom the department or licensed adoption agency placed the child for adoption, the superior court may nevertheless decree the adoption if it finds that the refusal to consent is not in the best interest of the child."

(2) Civil Code Section 224n(b) reads in part: "Civil Code Section 224n(b) The petitioner for adoption and the agency having exclusive custody of the child may jointly petition the court for an interlocutory decree of adoption for a child eligible for aid under the Adoption Assistance Program. The court receiving such a petition may grant an interlocutory decree of adoption, which gives the petitioner legal custody of the child, if the court finds the child to be free for adoption, and which shall become a final decree of adoption upon the expiration of not more than 12 months from entry, unless a motion to set aside this decree, or to shorten or extend the interlocutory period, has been filed with the court."

The petitioner for adoption or the Department or licensed adoption agency may file a motion with the court for an order rescinding the interlocutory decree of adoption.

An interlocutory decree of adoption shall become a final decree of adoption 12 months after entry of the interlocutory decree, unless the 12-month period is shortened or extended for good cause by the court upon motion of a party to the petition for

adoption. In no event shall the extension
granted exceed an additional six months.

A final decree of adoption pursuant to
Section 227 may not be entered less than
six months after issuance of an
interlocutory decree of adoption.

Authority Cited: Sections 10553 and 10554 of the Welfare and
Institutions Code.

Reference: Section 16119 of the Welfare and Institutions
Code

Amend Subsections 35207(K) and (M) to read:

35207 ADOPTIVE PLACEMENT AGREEMENT

35207

(1) (Continued)

(K) The agency's authority to terminate the adoptive placement and to remove the child from the home of the prospective adoptive parents at the agency's discretion unless an interloutory decree of adoption is in effect or a petition for adoption has been filed.

(M) The prospective adoptive parent's right to terminate the adoptive placement and return the child to the agency at any time prior to the granting of an interloutory or final decree of adoption.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 16119 of the Welfare and Institutions Code.

Amend Sections 35215(a) to read:

35215 REQUIREMENT FOR SUPERVISION OF THE ADOPTIVE
 PLACEMENT

35215

(a) The agency shall supervise the adoptive placement unless an interlocutory decree of adoption is in effect.

HANDBOOK

*†† Ordinarily the issuance of an interlocutory decree of adoption relieves the agency of the responsibility of supervising the adoptive placement because the issuance of the interlocutory decree gives the court the power to determine whether the child is to be removed from the home of the prospective adoptive parents. An interlocutory decree of adoption may also be issued which delegates the authority to supervise the adoptive placement to the agency.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 16119 of the Welfare and Institutions Code.

Amend Subsections 35227(a)(4) and (5) to read:

35227 SECURING AN AMENDED BIRTH CERTIFICATE

35227

(a) (Continued)

- (4) Unless an interlocutory decree of adoption is in effect, the agency shall file the Court Report of Adoption form with the superior court at the time the joinder and consent are filed.
- (5) If an interlocutory decree of adoption is in effect and if the adoptive parents wish to obtain an amended birth certificate for the child, the agency shall file the Court Report of Adoption form with the superior court no sooner than five days before the interlocutory decree of adoption becomes a final decree of adoption.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 16119 of the Welfare and Institutions Code.

Amend Handbook Sections 35325(1)(A) and (C) to read:

35325 AAP ELIGIBILITY

35325

(1) (Continued)

HANDBOOK

- (1) Welfare and Institutions Code Section 16120 states in pertinent part:

"Welfare and Institutions Code Section 16120: Adoption Assistance Program benefits shall be ~~paid~~ provided only on behalf of special needs children for whom all of the following conditions are met:

- (A) The department or licensed adoption agency and the prospective adoptive parent have signed an adoption assistance agreement which stipulates the need for and the amount of Adoption Assistance Program benefits. The adoption assistance agreement shall, at a minimum, specify the duration of assistance, the responsibility of the adopting family for reporting changes in circumstances, and the periodic recertification required for reevaluating the continuing needs of the family.
- (B) The child is under 18 years of age, or under 21 years of age and has a mental or physical handicap which warrants the continuation of assistance.
- (C) The adoptive family is responsible for the child pursuant to the terms of an adoption assistance agreement and an interlocutory decree adoptive placement agreement or a final decree of adoption and have signed an adoption assistance agreement.
- (D) The adoptive family is legally responsible for the support of the child and the child is receiving support from the adoptive parent.
- (E) The child has been either relinquished for adoption to a California agency or freed for adoption through termination of parental rights by a California court, or committed to the department pursuant to subdivision (c) of Section 226 of the Civil Code.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 16119 of the Welfare and Institutions Code.

Amend Section 35335(a)(2) to read:

35335 CONTENT OF THE ADOPTION ASSISTANCE AGREEMENT 35335

(a) (Continued)

- (2) If AAP is to be provided after an interloctory decree of adoption the adoptive placement but prior to the final decree, the adoption assistance agreement shall be signed prior to the granting of the interloctory decree of adoption assistance.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institution Code.

Reference: Section 16119 of the Welfare and Institutions Code.

Amend Section 35369(a)(4)(B)(2)(i) to read:

35369 PROVISIONS OF THE ICWA

35369

(a) (Continued)

(4) (Continued)

(B) (Continued)

(2) If the parent's request follows an adoptive placement, the agency shall immediately notify the adoptive parents and return the child to the parent within an agreed upon time period, which would ordinarily not exceed three working days.

(i) In no case shall the return of the child require more than seven calendar days following the parent's request unless an interlocutory decree has been granted, in which case the parent's request shall be brought immediately to the attention of the court.

Authority Cited: Sections 10553 and 10554 of the Welfare and Institutions Code.

Reference: Section 16119 of the Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

FILED

In this office of the Secretary of State
of the State of California

DEC 01 1988

At 4:45 o'clock P. M.
MARCH FONG FU, Secretary of State
By *Heller*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1101-05

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

12/6/88
Date

Amend Section 35381(a)(3) to read:

35381 PLACEMENT AGREEMENT, COMPLIANCE WITH ORDER OF 35381
 PLACEMENT PREFERENCE AND PROCEDURE REGARDING
 REQUEST TO RESCIND

(i) (Continued)

(2) Immediately bring to the attention of the court a
parent's request to rescind the relinquishment and/or
reclaim the child in cases in which an interagency
decree of adoption has been granted.

Authority Cited: Sections 10553 and 10554 of the Welfare and
Institutions Code.

Reference: Section 16119 of the Welfare and Institutions
Code.

FACE SHEET

(See Instructions on Reverse)

RDB #0888-38

1988 DEC -6 PM 1:50

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
DEC 14 1988



For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

(AGENCY)



AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 11/28/88

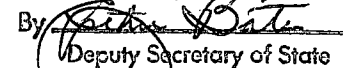
FILED

In this office of the Secretary of State
of the State of California

DEC 14 1988

At 4:45 o'clock P.M.

MARCH EDNA EU, Secretary of State

By 
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau

445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

SECTIONS AMENDED:

69-203.4; 69-206.212 and 69-212.8

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: N/A

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A	b. DATE OF FINAL AGENCY ACTION December 2, 1988	c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A
--	--	--

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations.* Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400* attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement.* (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

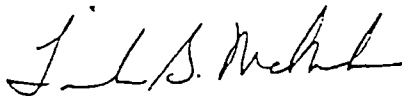
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.


Linda S. McMahon
Director

8-26-88
Date

(1) Amend Section 69-203.41 to read:

69-203 DEFINITIONS (Continued)

69-203

4 Cash Assistance (Continued)

- 41 For purposes of determining eligibility for RCA, RCA means cash assistance provided to refugees who have been determined to be ineligible for AFDC or SSI/SSP and who have resided in the United States for ~~18 months or less from date of entry no longer than the period of time required by federal regulations contained in 45 CFR Sections 400 et seq. or official issuances from the Director of the Federal Office of Refugee Resettlement.~~

HANDBOOK

411 Federal regulations, effective October 1, 1988, set RCA time eligibility at 12 months (45 CFR Sections 400.2, 400.5, 400.203, 400.204, and 400.209).

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 45 CFR 400.2, 400.5, 400.203, 400.204, and 400.209.

(1) Amend Section 69-206.212 to read:

69-206 ELIGIBILITY FOR REFUGEE DEMONSTRATION PROJECT 69-206
(RDP) OR REFUGEE CASH ASSISTANCE (RCA) (Continued)

.2 Eligibility Determination (Continued)

.212 Eligibility for RCA is limited to the ~~first 18 months~~ number of months required in Section 69-203.41 following the refugee's date of entry in the United States. The month of entry, as indicated on the INS Form I-94, is counted as the first month. Unaccompanied refugee minors (Section 69-211) are not subject to the ~~18-month~~ time limitation.

- (a) A refugee who is within the ~~18-month period~~ number of months required in Section 69-203.41 following date of entry in the United States is referred to as a RCA time-eligible refugee for purposes of RCA.
- (b) A refugee who has lived in the United States for more than ~~18 months~~ the number of months required in Section 69-203.41 is referred to as a RCA time-expired refugee.
- (c) Children born in the United States of refugee parents (Section 69-203.3) shall be considered time-expired based on the most recently arrived parent's expiration date or at the end of the ~~18th month~~ number of months required in Section 69-203.41 from the child's birth date, whichever occurs sooner.
- (d) Continued
- (e) Continued

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 45 CFR 400.2, 400.5, 400.203, 400.204, and 400.209.

(1) Amend Section 69-212.8 to read:

69-212 UNACCOMPANIED REFUGEE MINORS (Continued)

69-212

.1 through .7 (Continued)

.8 Unaccompanied refugee minor cases shall be claimed under RCA.
The ~~18-month~~ time limit applicable to RCA cases required in
Section 69-203.41 does not apply.

Authority Cited: Sections 10553 and 10554, Welfare and
Institutions Code.

Reference: Sections 45 CFR 400.2, 400.5, 400.203, 400.204,
and 400.209.

OFFICE OF ADMINISTRATIVE LAW CERTIFICATION OF APPROVAL

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1206-01E


LINDA STOCKDALE BREWER
DIRECTOR

12/14/88
Date

FACE SHEET

88-1216-035
RDB #1088-47
(See Instructions on Reverse)

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

1988 DEC 16 PM 3
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
DEC 21 1988

Office of Administrative Law

EMERGENCY

Department of Social Services

J. S. McKel
(AGENCY)
AGENCY OFFICER WITH RULEMAKING AUTHORITY

FILED
In the Office of the Secretary of State
of the State of California

DEC 21 1988
AP 4:35 PM
MARCH FONG EU, Secretary of State
By *Shella Luy*
Deputy Secretary of State

For use of Office of Adm Law

Date: 12/16/88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
Rosalie Clark, Chief Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

69-213.7

SECTIONS AMENDED:

69-213.6

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public:

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
☐ Other (SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER

b. DATE OF FINAL AGENCY ACTION

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))

N/A

12/16/88

N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

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- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
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- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

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- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend MDP Section 69-213 to read:

69-213 TERMINATION OF AID

69-213

Aid payments to refugees under the RDP and RCA programs shall be discontinued in accordance with AFDC regulations and under the following circumstances except that the number of hours worked shall not be a basis for termination:

- .1 A sponsor is meeting the full needs of the refugee or refugee family, in accordance with AFDC standards of assistance.
- .2 A refugee marries a United States citizen or other nonrefugee, including a time-expired refugee, who is able to meet the refugee's needs. In these circumstances, aid shall be discontinued for the refugee parent. Aid for the minor child(ren) in the assistance unit shall be continued unless the United States citizen or other nonrefugee stepparent is able to meet all needs of the child(ren) in accordance with AFDC standards of assistance.
- .3 A refugee becomes time-expired (per Section 69-206.21), becomes a naturalized United States citizen or otherwise loses refugee status.
- .4 A refugee fails to meet, without good cause, the registration, employment and educational/training requirements (see Section 69-208).
- .5 A refugee fails to cooperate in providing sponsor or VOLAG information for purposes of determining eligibility for RDP or RCA.
- .6 WhenIf 100 percent federal funding for cash assistance only ceases for the RDP or RCA program, before September 30, 1989.
- .7 If 100 percent federal funding for cash assistance or administrative costs ceases for the RCA or RDP program, after September 30, 1989.

.87 (Continued)

.98 (Continued)

Authority Cited: Sections 10553 and 10554. Welfare and
Institutions Code; and Section 3 of Chapter
476, Statutes of 1988.

Reference: Chapter 476, Statutes of 1988.

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED
In this office of the Secretary of State
of the State of California

DEC 21 1988
At 4:35 o'clock P.M.
MARCH FORG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1216-03 E

[Signature]
for LINDA STOCKDALE BREWER
DIRECTOR

12/21/88
Date

FACE SHEET

88-1214-02E
RDB #1088-46
(See Instructions on Reverse)

1988 DEC 14 PM 3:32

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING

DEC 21 1988

Office of Administrative Law
For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

DEPARTMENT OF SOCIAL SERVICES

(AGENCY)

L. S. Mohr
AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12/14/88

EMERGENCY FILED
In this office of the Secretary of State
the State of California

DEC 21 1988

At 4:35 o'clock P. M.

MARCH FONG EU, Secretary of State

By *M. L. Kelly*

Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions)
Rosalie Clark, Chief Regulations Development Bureau 445-0313
TITLE TELEPHONE
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
SECTIONS ADOPTED: _____
Title MPP SECTIONS AMENDED: 42-720.573, 42-760.2, 42-761.11
SECTIONS REPEALED: 42-710.26, 42-720.63
42-720.631 through .638
b. The following sections listed in 3a contain modifications to the text originally made available to the public: _____
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL: _____
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL: _____
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A b. DATE OF FINAL AGENCY ACTION 12/14/88 c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☒ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

1936 DEC 20 PM 2:48

Amend Section 42-710.26 to read:

OFFICE OF
ADMINISTRATIVE

42-710 INTRODUCTION TO GAIN (Continued)

42-710

.2 Major Program Requirements (Continued)

.26 When the county becomes a GAIN county, the caseload can be phased-in over a ~~two~~ three-year period.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.2(f), Welfare and Institutions Code.

Adopt Section 42-720.573 to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.5 SDSS County Plan Approval (Continued)

.573 Whether a phase-in plan is likely to result in the subsequent removal of a disproportionate number of active participants from the program if reductions are implemented pursuant to Section 42-720.6.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.21(d)(2), Welfare and Institutions Code.

Amend Section 42-720.63; repeal Sections 42-720.631 through .638; renumber Sections 42-720.64 to .65, .641 to .651, .642 to .652, and .643 to .653; and adopt Sections 42-720.631 and .632 et seq., .64, .64(a) and (b), .652(b), .66, .67, and .67(a) and (b) to read:

42-720 THE GAIN COUNTY PLAN (Continued)

42-720

.6 CWD Reduction Plan

.61 (Continued)

.62 (Continued)

.63 The CWD shall use the following methods to reduce costs and shall use only those methods that are necessary to bring anticipated expenditures within the amounts allocated to the CWD. These methods shall be used for only a specified period and only in the order in which they appear below:

+.631 Temporary deferral of new applicants for aid under the Aid to Families with Dependent Children - Unemployed Parent Program

+.632 Temporary deferral of all Aid to Families with Dependent Children-Unemployed Parent recipients who have been continuously on aid for less than one year

+.633 Temporary assignment of volunteer registrants to a waiting list during which time these registrants will receive no services

+.634 Temporary deferral of all new applicants for aid under the Aid to Families with Dependent Children - Family Group Program

+.635 Temporary deferral of all Aid to Families with Dependent Children - Unemployed Parent recipients who have been on aid for one year or more

+.636 Temporary deferral of all Aid to Families with Dependent Children - Family Group recipients who have been continuously on aid for less than one year

+.637 Temporary deferral of all Aid to Families with Dependent Children - Family Group recipients who

have been continuously on aid for less than two years.

•639 Temporary deferral of all participants based on the time on aid, with participants who have been on aid the longest being the last to receive deferrals.

•631 Counties in their phase-in period shall first halt intake into the GAIN program in the following order:

(a) Aid to Families with Dependent Children-Unemployed Parent Program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration.

(b) Aid to Families with Dependent Children-Family Group Program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration.

(c) Aid to Families with Dependent Children-Family Group or Unemployed Parent recipients, excluding teenage parents, who voluntarily register for GAIN although exempt from registration.

(d) All Aid to Families with Dependent Children-Unemployed Parent recipients who have been on aid for less than one year.

(e) All Aid to Families with Dependent Children-Unemployed Parent recipients who have been on aid continuously for less than two years.

(f) All Aid to Families with Dependent Children-Family Group recipients who have been on aid for less than one year.

(g) All Aid to Families with Dependent Children-Family Group recipients who have been on aid continuously for less than two years.

(h) Volunteer teenage parent registrants.

- (i) All remaining Aid to Families with Dependent Children recipients, with recipients who have been on aid the longest being the last to be excluded.

.632 Counties that have fully phased-in their caseload, shall first halt intake into the GAIN program as follows:

- (a) Aid to Families with Dependent Children-Unemployed Parent program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration.
- (b) Aid to Families with Dependent Children-Family Group program applicants who are mandatory registrants or who voluntarily register for GAIN although exempt from registration.
- (c) Aid to Families with Dependent Children-Family Group of Unemployed Parent recipients, excluding teenage parents, who voluntarily register for GAIN although exempt from registration.
- (d) Recipients whose registration status changes from exempt to mandatory.
- (e) Recipients who lose their deferral status.

.64 If reductions under Sections 42-720.631 or .632 are not sufficient to bring anticipated expenditures within the County's allocation, the CWD shall exclude from program participation recipients who are currently participating in a program component. The CWD shall exclude participants in the following order:

- (a) Volunteers, except for teen parents, currently participating in a program component, shall be the first to be excluded from continued program participation.
- (b) All other participants in the order listed in 42-720.631(d) through (i).

.645 (Continued)

.6451 (Continued)

.6452 (Continued)

(a) (Continued)

(b) Except as provided in 42-720.66 and .67, persons identified as excluded shall be excluded from program participation throughout the fiscal year even if their exclusion status changes.

.6453 (Continued)

.66 In the event funds become available, the CWD must halt its reduction process and resume services in accordance with the procedures established under 42-720.661(a) below.

.661 The CWD reduction plan must describe:

(a) The methodology to be used to resume services to individuals excluded or targeted for exclusion under the reduction plan; and

(b) The re-entry methodology to be used at the end of the reduction period for those individuals who were excluded from program participation during the prior fiscal year.

.67 The CWD shall serve excluded individuals who express a desire to participate in the program if the following conditions are met:

(a) Participation of these excluded individuals would not interrupt services to individuals already participating in the program;

(b) The individuals desiring to participate are not applicants or volunteer registrants.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10554, 11320.21(d), Welfare and Institutions Code.

Adopt Section 42-760.2 and renumber subsequent sections to read:

42-760 GAIN REGISTRATION (Continued)

42-760

.2 If the County is under statutory reductions in accordance with Section 42-720.6, the CWD shall provide a written notification of registration to excluded individuals. The notification shall include information regarding the reason for exclusion and the right to appeal this determination. The County shall use the notification format and language developed by SDSS. Sections 42-760.3 through .5 do not apply to excluded individuals.

.23 (Continued)

.34 (Continued)

.341 (Continued)

.342 (Continued)

.343 (Continued)

.45 (Continued)

.56 (Continued)

.67 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10554, 11320.21(d), Welfare and Institutions Code.

Adopt Section 42-761.11 to read:

42-761 GAIN REGISTRANT APPRAISAL (Continued)

42-761

.1 (Continued)

- .11 The CWD shall not conduct the appraisal activities specified in Section 42-761.3 through 42-761.43, for individuals excluded from program participation in accordance with Sections 42-720.63 through .64, unless the individuals are permitted to participate pursuant to Sections 42-720.66 or .67. The CWD shall collect data on these excluded individuals in conformity with SDSS requirements.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11320.21(d), Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED
In this office of the Secretary of State
of the State of California

DEC 21 1988
At 9:35 o'clock P. M.
MARCH FONG EU, Secretary of State
By *[Signature]*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

OAL File No: 88-1214-02 E

[Signature]
for **LINDA STOCKDALE BREWER**
DIRECTOR

12/21/88
Date

FACE SHEET

(See Instructions on Reverse)

1988 NOV 23 PM 3:54

OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
DEC 22 1988

Office of Administrative Law

For use of Office of Adm Law

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

State Department of Social Services

(AGENCY)

L. S. Mahal

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date:

11-21-88

RDB #0688-21

FILED

In this office of the Secretary of State
of the State of California

DEC 2 1988

At 4:44 o'clock P. M.

MARCH FONG EU, Secretary of State

By *M. L. L.*
Deputy Secretary of State

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)

TITLE

TELEPHONE

Rosalie Clark, Chief, Regulations Development Bureau

(916) 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☐ Emergency ☒ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

SECTIONS ADOPTED:

Title MDP

50-017, et seq.

SECTIONS AMENDED:

SECTIONS REPEALED:

b. The following sections listed in 3a contain modifications to the text originally made available to the public: 50-017.27, .325, .414, .415, .416, .421, .424, .516, .65, .82, and .823

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☒ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☒ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA
ADMINISTRATIVE NOTICE REGISTER

August 5, 1988

b. DATE OF FINAL AGENCY ACTION

NOV 22 1988

c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT.
CODE SEC. 11346.8(c))

October 31, 1988-November 15, 1988

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State.
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

CERTIFICATE OF COMPLIANCE - Section 11346.1(e), Government Code

The Department of Social Services hereby certifies that it has complied with the provisions of Section 11346.4 through 11346.8 inclusive of the Government Code, within 120 days of the effective date of the following emergency regulations which were filed with the Secretary of State on August 1, 1988, and which became effective on August 1, 1988.

Manual of Policies and Procedures, Division 50, Chapter(s) 017 Sections:

AmendedAdoptedRepealed

50-017.1 through .823

These regulations were presented at public hearing on September 21, 1988. As a result of the public hearing the following sections have been changed.

AmendedAdoptedRepealed

50-017.27
50-017.325
50-017.414
50-017.415
50-017.416
50-017.421
50-017.424
50-017.516
50-017.65
50-017.82
50-017.823



LINDA S. MCMAHON
Director

11-21-88

Date

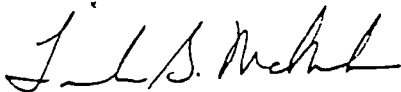
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88

Date

Amend Sections 50-017.22, .23, .25, .27, .28, .311, .312, .313, .321, .321(a), .325, .327, .414, .415, .416, .421, .423, .424, .425, .425(b), .45, .513, .516, .521, .65, .82, and .823 to read:

50-017 RUTAN v. McMAHON RETROACTIVE BENEFIT COURT CASE 50-017

HANDBOOK

.1 Background

The Rutan v. McMahon lawsuit challenged the State Department of Social Services' (SDSS') authority to count a lump sum received by a recipient as income available to meet current and future needs without first providing an adequate and timely explanation of the lump sum rule. On August 20, 1986, the Superior Court for Alameda County ordered SDSS and County Welfare Departments (CWDs) to inform all recipients and applicants of the lump sum rule. The final judgement ordered SDSS to provide retroactive benefits to class members. On February 19, 1988, the Final Order was signed and the provisions of that order are set forth in the following regulations.

.2 Definitions

For purposes of these regulations:

- .21 "Class members" are individuals who received a lump sum on or after June 1, 1983 and as a result had their cash aid reduced, denied or terminated at some time during the retroactive period.
- .22 "Intent to Claim Form" (Temp 1709, 7/88) means that portion of the Intent to Claim Forms which must be completed, signed and returned to the appropriate CWD to initiate the claim determination process.
- .23 "Claim Form" (Temp 1709A, 7/88) means the form which must be completed, signed and returned to the appropriate CWD for the determination of a claimant's eligibility for retroactive benefits.
- .24 "Retroactive period" means that period of time between June 1, 1983 and August 26, 1986.
- .25 "Good Cause" means those situations when the claimant's failure to return the Intent to Claim Form (Temp 1709, 7/88) or the Claim Form (Temp 1709A, 7/88) was the result of: 1) a mental or physical condition, 2) an error directly attributable to the county, or 3) other

extenuating circumstances determined by the county to constitute good cause.

.26 "Mailing CWDs" are those CWDs identified in Subsection 50-017.324 which shall mail Intent to Claim Forms by August 1, 1988 to all potential claimants identified by either manually searching existing files or computer records, or through a specific computer generated report.

.27 "Face-to-Face" CWDs are those CWDs identified in Subsection 50-017.325 which shall provide Intent to Claim Forms to all recipients at the time of annual redetermination, and to all applicants for AFDC benefits who had previously received such benefits at any time between June 1, 1983 and August 26, 1986.

.28 "Informed" for the purposes of this court case means that the claimant received an adequate Notice of Action or received the Notice informing the applicants/recipients of the provisions of the lump sum rule as required by the preliminary injunction in this case.

.3 Informing Potentially Eligible Persons of the Availability of Retroactive Benefits

.31 In order to notify potentially eligible persons SDSS shall:

.311 Issue posters (Temp 1709B, 7/88) to the CWDs printed in English and Spanish with statements printed in Vietnamese, Laotian, Chinese and Cambodian. The English and Spanish on the poster will inform the general public of the availability of benefits. The statements will translate in substance as "Welfare may owe you money. You may contact your worker for a translation of this notice."

.312 Provide CWDs with reproducible copies of the Intent to Claim Form (Temp 1709, 7/88) in English and Spanish with statements in Vietnamese, Laotian, Chinese and Cambodian. The statements will translate as "Welfare may owe you money. You may contact your worker for a translation of this notice."

- 313 Provide the CWDs with reproducible copies of the Claim Form (Temp 1709A, 7/88) in English and the five standard languages.

•32 County Responsibilities

- 321 All counties shall post the English and Spanish informational posters in conspicuous locations in all CWD offices. The posters shall be displayed from August 1, 1988 through July 31, 1989.

- (a) All counties shall forward a supply of English and Spanish informational posters, supplied by SDSS, to all food stamp issuance outlets within the county with instructions that the posters be displayed in conspicuous locations from August 1, 1988 through July 31, 1989.

- 323 The "Mailing" counties identified in Subsection 50-017.324 shall identify all discontinuances and denials as a result of the receipt of lump sum income during the retroactive period through the use of computer generated reports or by manually searching through case records.

- 324 The "Mailing" counties shall mail an Intent to Claim Form on or before August 1, 1988 to all potential class members. The "Mailing" counties are:

Alameda, Alpine, Amador, Contra Costa, Del Norte, El Dorado, Fresno, Kern, Madera, Marin, Mendocino, Merced, Modoc, Mono, Monterey, Nevada, Orange, Placer, Plumas, Riverside, Sacramento, San Bernardino, San Francisco, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Tehama, Tulare, Ventura, and Yuba.

- 325 The "Face-to-Face" counties shall screen all cases at the time of application and at annual redetermination for a one year period August 1, 1988 to July 31, 1989 to determine if there had been a lump sum period of ineligibility or case aid reduction during the retroactive period. The "Face-to-Face" counties are:

Butte, Calaveras, Colusa, Glenn, Humboldt, Imperial, Inyo, Kings, Lake, Lassen, Los Angeles, Mariposa, Napa, San Benito, San Diego, Shasta, Sierra, Siskiyou, Sutter, Trinity, Tuolumne, and Yolo.

- .326 All counties shall reproduce an adequate supply of the English and Spanish Intent to Claim Forms specified in Subsection 50-017.312, and shall give or mail such notices to anyone upon request.
- .327 All counties shall reproduce an adequate supply of the Claim Form (Temp 1709A, 7/88) in English and the five standard languages. The CWD shall give or mail such forms to anyone who has completed the Intent to Claim Form unless it is determined from case records that the claimant is not eligible for retroactive benefits.
- .328 If more than one CWD is listed on the Intent to Claim Form, the CWD shall photocopy and forward within 15 working days all claiming documents to each CWD listed and all records in their possession which may affect the claim.
- .33 All counties shall designate at least one employee to answer questions concerning this case and to provide assistance in completing the form(s). The name and telephone number of the employee will be listed on the Claim Form.

.4 Application for Retroactive Benefits

.41 Claimant Responsibilities

- .411 The claimant shall complete and sign under penalty of perjury the Intent to Claim Form.

(a) A Notice of Intent to Claim Form shall be considered complete when the claimant has provided a name, address, social security number, telephone number, if any and the county they were living in when they received the lump sum payment.

- .412 The claimant shall complete and sign, under penalty of perjury, the Claim Form.

(a) A Claim Form shall be considered complete when the claimant has provided a response to the following questions:

- (1) The amount of the lump sum payment which was spent before he/she received written notice of the lump sum rule.
- (2) How the money was spent.
- (3) The amount of income if any, received in any month of the disqualification period, as originally determined.
- (4) Whether the claimant held non-exempt resources in excess of \$1,000 during the disqualification period.
- (5) The members of the household during the disqualification period.
- (6) The manner in which the family survived during the disqualification period.

.413 The claimant shall submit the Intent to Claim Form to his/her local CWD.

.414 The Intent to Claim Form in the "Mailing" counties (see Subsection 50-017.324) must be submitted to the local CWD 30 days from the date of receipt unless good cause exists where up to an additional 30 days shall be permitted to return the Intent to Claim Form. If the claimant has not been notified by the CWD, the claimant shall have the same period to return the Intent to Claim Form as claimants in the "Face-to-Face" CWDs.

.415 The Intent to Claim Form in the "Face-to-Face" counties shall be returned within 30 days unless good cause exists, whereupon up to an additional 30 days will be permitted.

.416 The claimant shall return the Claim Form to the responsible CWD no later than 60 days after receipt unless good cause exists, whereupon up to an additional 30 days will be permitted.

- .417 The claimant shall be permitted to resubmit a previously denied claim or a portion thereof, if the date of resubmittal is within the period an original Claim Form may be submitted.

.42 CWD Responsibilities

- .421 In the "Face-to-Face" counties starting August 1, 1988, the Intent to Claim Form shall be provided to all recipients of AFDC benefits at the time of annual redetermination, and to all applicants for AFDC benefits who had previously received such benefits at any time between June 1, 1983 and July 31, 1986. CWDs shall document in the case file that the Intent to Claim Form was given.
- .422 "Mailing Counties" shall mail Intent to Claim Forms by August 1, 1988. The mailing shall be to all potential class members identified by manually searching computer listings or by generating a specific computer report.
 - (a) If an Intent to Claim Form is returned as undeliverable, the CWD shall review the Medical Eligibility Data System (MEDS) and food stamp records to determine the most recent address available. The CWD shall then mail to the updated address within 15 working days.
- .423 Unless the evidence indicates otherwise, the date of the Claim Form or the Intent to Claim Form is submitted shall be determined as follows:
 - (a) The postmark date of the envelope when the claim is mailed to the CWD; or
 - (b) The date stamped on the Claim Form by the CWD, when the claim is delivered in person to the CWD; or
 - (c) The date the Claim Form was signed by the claimant, when the date cannot be determined by either (a) or (b) above.
- .424 Within 30 calendar days after receiving the Intent to Claim Form, the responsible CWD shall make a determination of potential eligibility and provide a Claim Form to any claimant that who is not clearly ineligible. If a CWD determines that a

claimant is not a class member, it shall send a Notice of Action (NOA) to the claimant advising of its determination and of the claimant's right to request a hearing. If the Intent to Claim Form is returned incomplete, the CWD shall send a NOA to the claimant requesting a completed Intent to Claim Form. If the CWD does not receive a completed Intent to Claim Form within 30 days from the date the claimant received the form the claim shall be denied.

- .425 Before providing the Claim Form (Temp 1709A, 7/88) the CWD shall fill in the following information:

- (a) The date(s) upon which the class member received a lump sum;
- (b) The date, if any, the county sent the class member written notice of the terms of the lump sum rule;

(1) This date shall be placed in the sentence on the fourth line of the left-hand column. That line shall read "...then we stopped your cash aid on (date)."

- (c) The period of ineligibility as originally determined.

- .426 When an Intent to Claim Form is submitted to the CWD by a claimant, the CWD shall attempt to locate a case record including a Medi-Cal case record for the claimant.

- .427 In the event a CWD determines a form was not returned in a timely manner, it shall deny the claim and send a NOA to the claimant advising of its determination and of the claimant's right to request a hearing.

- .43. When a Claim Form is returned to the claimant as incomplete and is not returned within 30 days, the CWD shall attempt a personal contact to assist in completing the form before denying the claim as incomplete.

- .44 In each case where a claim is filed, the CWD shall maintain all documents until the end of the claim period.

.441 The CWD shall stamp each Claim Form with the date the form was received and shall retain all envelopes that were postmarked after the close of the claim period.

.45 There shall be a rebuttable presumption in the "Mailing" counties that, if a claimant's name is on the CWD's¹ mailing list and the Intent to Claim Form was not returned as undeliverable, that the Intent to Claim Form was timely received.

.46 There shall be no oral screening of potential claimants. This does not preclude CWDs from giving advice from which a potential claimant can conclude whether he/she is eligible or ineligible.

.5 Claim(s) Processing

.51 The CWD shall review each Claim Form to determine whether the claimant may be a member of the class and whether the claimant has provided a completed Claim Form pursuant to Subsection 50-017.412.

.511 The CWD shall request further information or clarification if the form is incomplete or the information is internally inconsistent.

.512 If the information contained on the Claim Form and the case record is sufficient to verify a claim, the county will compute retroactive benefits in accordance with Subsection 50-017.6.

.513 Claimants may be requested to supply documentation where such documentation is in the claimant's possession. Where claimants do not have documentation in their possession, they may be asked to sign a Release of Information Form (ABCDM 228, 10/78), enabling the county to obtain documentation on their behalf. A claim may be denied if the claimant fails to provide documentation in his/her possession or sign the Release of Information Form.

.514 Where the CWD determines, based upon information in the case record or on the Claim Form, that the claimant was ineligible for cash aid due to excess income (other than the lump sum received) or excess property during all or part of the retroactive period, the claim shall be denied for those months.

- .515 If the CWD determines that the claimant is not a member of the class, the CWD shall send a NOA and deny the claim. The CWD shall review all existing records and shall deny the claim if no record can be found that the claimant applied for or received cash aid. This provision applies only when the CWD can certify that a listing of cash aid cases (such as the AFDC payroll or warrant register) was retained in addition to cash aid case records for the time period claimed. In addition, this provision can be applied to claimants who were denied cash aid only when the CWD can certify that existing cash aid case records include all denials.
- .516 Claimants who received an overpayment, but failed to timely report the lump sum, are not eligible for retroactive benefits. However, the CWD shall take no further action on the recovery of the overpayment.
- .52 If a CWD receives a claim for any period in which the CWD can determine from the Claim Form or the case record that the form has been submitted to the wrong county, the CWD shall:
 - .521 Forward, within 15 working days from the date of receipt, the Claim Form or a copy thereof, to the correct CWD. A copy of the NOA shall be sent to the claimant indicating the claim period to be processed by the second CWD, when the correct CWD can be determined by the information on the Claim Form or case record. In addition, the CWD shall inform the claimant on that same NOA that, for the period in question, his/her claim has been forwarded to the correct CWD for processing.
 - .522 For the purpose of establishing a timely submission of a claim, the date the Claim Form was submitted to the first CWD, as determined in Subsection 50-017.423, shall be considered the date of submission to the second CWD.
 - .523 The CWD shall deny that period claimed in which the correct CWD cannot be determined from the information on the Claim Form. The CWD shall return the Claim Form, or a copy thereof, together with the NOA informing the claimant of the denial and right to a hearing.

- .53 If the claimant does not return the Claim Form to the responsible CWD within 60 days from receipt without good cause, the claim shall be denied. The CWD shall send an NOA to the claimant advising of its determination and the claimant's right to a hearing.

- .531 If the claimant fails to return the Claim Form but has good cause, the claimant shall be permitted up to an additional 30 days from the date of the good cause determination to return the Claim Form. The Claim Form in no case shall be accepted later than January 31, 1990.

.6 Calculation of Retroactive Benefits

- .61 The information contained in the case record shall be used to determine the amount of retroactive benefits.

- .62 In the event that the information the claimant has provided on the Claim Form conflicts with the information contained in the CWD's records, the CWD shall use the information contained in the CWD's records to determine the amount of retroactive benefits.

- .63 If case record information is not available or is insufficient, the amount of the retroactive benefit will be calculated using the information on the Claim Form.

- .64 When the case record contains sufficient information or when the retroactive benefits are being computed from the information contained on the Claim Form, the CWD shall determine the amount of the retroactive benefits as follows:

- .641 For each lump sum received in the retroactive period, determine the amount of money which was still available to the claimant when he/she was informed of the lump sum rule. Any money spent by the claimant before he/she was informed of the lump sum rule shall not be counted.

- .642 The amount of money determined in Subsection 50-017.641 shall be divided by the Assistance Unit's (AU's) Minimum Basic Standard of Adequate Care at the time the lump sum was received to determine a new period of ineligibility.

- .643 For each month deducted from the original period of ineligibility (POI) under Subsection 50-017.642, calculate the correct grant when all

or part of the lump sum is not counted. See Subsection 50-017.644 for the Maximum Aid Payment (MAP) in the retroactive period.

.644 Maximum Aid Payments (MAP) in the Retroactive Period

Size of FBU	Maximum Aid Payment				
	6/1/83- 6/30/83	7/1/83- 6/30/84	7/1/84- 6/30/85	7/1/85- 6/30/86	7/1/86- 7/31/86
1	\$ 248	\$ 258	\$ 272	\$ 288	\$ 303
2	408	424	448	474	498
3	506	526	555	587	617
4	601	625	660	698	734
5	686	713	753	796	837
6	771	802	847	895	941
7	846	880	929	982	1,032
8	922	959	1,013	1,071	1,126
9	996	1,036	1,094	1,156	1,215
10 or more	1,071	1,114	1,176	1,243	1,306

.645 Determine the amount of cash aid actually received by the claimant and compare it to the correct grant for each month identified in Subsection 50-017.643.

- (a) If the cash aid received is less than the correct grant, the difference is the retroactive benefits for that month to be paid in accordance with Subsection 50-017.7.
- (b) If the cash aid received is the same as the correct grant and an overpayment was previously calculated for that month due to the receipt of a lump sum, the overpayment shall be voided and any amounts previously recouped shall be considered retroactive benefits to be paid under Subsection 50-017.7.
- (c) If cash aid received is the same as the correct grant(s) and no overpayment was previously calculated or recouped for those

months, the claimant is not a class member and the claim shall be denied.

.65 CWDs shall notify claimants of the disposition of their claims and pay the claimant if approved within 90 days from the date the form is received unless a claim is submitted incomplete, whereupon an additional 30 days shall be permitted for processing.

.7 Computation of the Total Retroactive Payment

.71 The CWD shall compute the amount of payable retroactive benefits for each month as follows:

.711 Multiply the amount of monthly retroactive benefit by the appropriate percentage for the month in which payment is authorized, as set forth in Subsection .713(a).

Example		
Month of Retroactive Benefit	February 1985	= \$555.00
Interest Percentage to be paid in payment authorization month	x September 1988	= x.3666
	Interest Amount	= \$203.46

.712 Add the amount of the monthly retroactive benefit to the interest as computed in Section 50-017.711 to determine the monthly retroactive payment.

Example		
Retroactive Benefit + Interest	=	Retroactive Benefit
\$555.00	\$203.46	\$758.46

.713 Determine the total amount of the retroactive payment by adding together the monthly payments as computed in Section 50-017.712.

HANDBOOK

HANDBOOK

(a) Retroactive Benefit Month - 1983

Payment Authorization Month	6/83	7/83	8/83	9/83	10/83	11/83	12/83
8/88	.5258	.5175	.5090	.5005	.4923	.4838	.4756
9/88	.5340	.5258	.5173	.5088	.5005	.4921	.4838
10/88	.5425	.5342	.5258	.5173	.5090	.5005	.4923
11/88	.5507	.5425	.5340	.5255	.5173	.5088	.5005
12/88	.5592	.5510	.5425	.5340	.5258	.5173	.5090
1/89	.5677	.5595	.5510	.5425	.5342	.5258	.5175
2/89	.5753	.5671	.5586	.5504	.5419	.5334	.5252
3/89	.5838	.5756	.5671	.5589	.5504	.5419	.5337
4/89	.5921	.5838	.5753	.5671	.5586	.5501	.5419
5/89	.6005	.5923	.5838	.5756	.5671	.5586	.5504
6/89	.6088	.6005	.5921	.5838	.5753	.5668	.5586
7/89	.6173	.6090	.6006	.5921	.5838	.5753	.5671
8/89	.6258	.6175	.6090	.6006	.5923	.5838	.5756
9/89	.6340	.6257	.6173	.6088	.6006	.5921	.5838
10/89	.6425	.6342	.6258	.6173	.6090	.6006	.5923
11/89	.6507	.6425	.6340	.6255	.6173	.6088	.6006

(b) Retroactive Benefit Month - 1984

Payment Authorization Month	1/84	2/84	3/84	4/84	5/84	6/84	7/84	8/84	9/84	10/84	11/84	12/84
8/88	.4671	.4586	.4507	.4422	.4340	.4255	.4173	.4088	.4003	.3921	.3836	.3753
9/88	.4753	.4668	.4589	.4504	.4422	.4337	.4255	.4170	.4085	.4003	.3918	.3836
10/88	.4838	.4753	.4674	.4589	.4507	.4422	.4340	.4255	.4170	.4088	.4003	.3721
11/88	.4921	.4836	.4756	.4671	.4589	.4504	.4422	.4337	.4252	.4170	.4085	.4003
12/88	.5005	.4921	.4841	.4756	.4674	.4589	.4507	.4422	.4337	.4255	.4170	.4088
1/89	.5090	.5005	.4926	.4841	.4759	.4674	.4592	.4507	.4422	.4340	.4255	.4173
2/89	.5167	.5082	.5003	.4918	.4836	.4751	.4668	.4584	.4499	.4416	.4332	.4252
3/89	.5252	.5167	.5088	.5003	.4921	.4836	.4753	.4668	.4584	.4501	.4416	.4337
4/89	.5334	.5249	.5170	.5085	.5003	.4918	.4836	.4751	.4666	.4584	.4499	.4419
5/89	.5419	.5334	.5255	.5170	.5088	.5003	.4921	.4836	.4751	.4668	.4584	.4504
6/89	.5501	.5416	.5337	.5252	.5170	.5085	.5003	.4918	.4833	.4751	.4666	.4586
7/89	.5586	.5501	.5422	.5337	.5255	.5170	.5088	.5003	.4918	.4836	.4751	.4669
8/89	.5671	.5586	.5507	.5422	.5340	.5255	.5173	.5088	.5003	.4921	.4836	.4753
9/89	.5753	.5669	.5589	.5504	.5422	.5337	.5255	.5170	.5085	.5003	.4918	.4836
10/89	.5838	.5753	.5674	.5589	.5507	.5422	.5340	.5255	.5170	.5088	.5003	.4921
11/89	.5921	.5836	.5756	.5671	.5589	.5504	.5422	.5337	.5252	.5170	.5085	.5003

(c) Retroactive Benefit Month - 1985

Payment Authorization Month	1/85	2/85	3/85	4/85	5/85	6/85	7/85	8/85	9/85	10/85	11/85	12/85
8/88	.3668	.3584	.3507	.3422	.3340	.3255	.3173	.3088	.3003	.2921	.2836	.2753
9/88	.3751	.3666	.3589	.3504	.3422	.3337	.3255	.3170	.3085	.3003	.2918	.2836
10/88	.3836	.3751	.3674	.3589	.3507	.3422	.3340	.3255	.3170	.3088	.3003	.2921
11/88	.3918	.3833	.3756	.3671	.3589	.3507	.3422	.3337	.3252	.3170	.3085	.3003
12/88	.4003	.3918	.3841	.3756	.3674	.3592	.3507	.3422	.3337	.3255	.3170	.3088
1/89	.4088	.4003	.3926	.3841	.3759	.3677	.3592	.3507	.3422	.3340	.3255	.3173
2/89	.4164	.4079	.4003	.3918	.3836	.3753	.3668	.3584	.3499	.3416	.3332	.3249
3/89	.4249	.4164	.4088	.4003	.3921	.3838	.3753	.3668	.3584	.3501	.3416	.3334
4/89	.4332	.4247	.4170	.4085	.4003	.3921	.3836	.3751	.3666	.3584	.3499	.3416
5/89	.4416	.4332	.4255	.4170	.4088	.4003	.3921	.3836	.3751	.3668	.3584	.3501
6/89	.4499	.4414	.4337	.4252	.4170	.4085	.4003	.3918	.3833	.3751	.3666	.3584
7/89	.4584	.4499	.4422	.4337	.4255	.4170	.4088	.4003	.3918	.3836	.3751	.3669
8/89	.4669	.4584	.4507	.4422	.4340	.4255	.4173	.4088	.4003	.3921	.3836	.3753
9/89	.4751	.4666	.4589	.4504	.4422	.4337	.4255	.4170	.4085	.4003	.3918	.3836
10/89	.4836	.4751	.4674	.4589	.4507	.4422	.4340	.4255	.4170	.4088	.4003	.3921
11/89	.4918	.4833	.4756	.4671	.4589	.4504	.4422	.4337	.4252	.4170	.4085	.4003

(d) Retroactive Benefit Month - 1986.

Payment Authorization Month	1/86	2/86	3/86	4/86	5/86	6/86	7/86
8/88	.2668	.2584	.2507	.2422	.2340	.2255	.2173
9/88	.2751	.2666	.2589	.2504	.2422	.2337	.2255
10/88	.2836	.2751	.2674	.2589	.2507	.2422	.2340
11/88	.2918	.2833	.2756	.2671	.2589	.2504	.2422
12/88	.3003	.2918	.2841	.2756	.2674	.2589	.2507
1/89	.3088	.3003	.2926	.2841	.2759	.2674	.2592
2/89	.3164	.3079	.3003	.2918	.2836	.2751	.2668
3/89	.3249	.3164	.3088	.3003	.2921	.2836	.2753
4/89	.3332	.3247	.3170	.3085	.3003	.2918	.2836
5/89	.3416	.3332	.3255	.3170	.3088	.3003	.2921
6/89	.3499	.3414	.3337	.3252	.3170	.3085	.3003
7/89	.3584	.3499	.3422	.3337	.3255	.3170	.3088
8/89	.3669	.3584	.3507	.3422	.3340	.3255	.3173
9/89	.3751	.3666	.3589	.3504	.3422	.3337	.3255
10/89	.3836	.3751	.3674	.3589	.3507	.3422	.3340
11/89	.3918	.3833	.3756	.3671	.3589	.3504	.3422

•72 Retroactive benefits received shall not be used to offset an overpayment incurred before February 20, 1985.

•73 Retroactive benefits received shall not be considered income or as a resource in the month received and the following month.

•8 Statistical Reporting

•81 The "Mailing" CWDs identified in Subsection 50-017.324 shall submit to SDSS:

•811 A statistical report no later than November 7, 1988 indicating:

(a) How many Intent to Claim Forms were mailed out;

(b) If the county mailed to an overinclusive class of persons; and

(c) A description of the class of persons to which Intent to Claim Forms were mailed.

•812 A final statistical report no later than May 8, 1989 indicating:

(a) The total number of Intent to Claim Forms provided to claimants;

(b) The number of Claim Forms provided to claimants;

(c) The number of claims received;

(d) The number of claims denied as untimely;

(e) The number of claims denied as incomplete;

(f) The number of claims denied because the claimant was not a member of the class;

(g) The number of claims denied because the claimant was not substantively eligible for retroactive benefits; and

(h) The number of claims granted in whole or part (a claim paid in part shall not be considered a denial).

•82 The "Face-to-Face" CWDs specified in Subsection 50-017.325 shall submit to SDSS:

•821 Three reports submitted on a quarterly basis with the first report due November 7, 1988 which state for each month:

(a) The number of Intent to Claim Forms provided to the claimants;

(b) The number of Intent to Claim Forms returned to the CWD; and

(c) The number of Claim Forms distributed.

•822 The fourth report due August 7, 1989 shall contain the same information as the final report of the "Mailing" CWDs (see Subsection 50-017.81).

•823 The fifth and final report due February 7, 1990 shall be an updated version of the "Face-to-Face" CWDs fourth report.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Section 11004(a), Welfare and Institutions Code and Rutan v. McMahon (Superior Court, Alameda County, 1988, No. 6125424) Class Action Stipulated Judgement and Order Approving Settlement Regarding: Retroactive Relief - February 19, 1988.

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED
In this office of the Secretary of State
of the State of California

DEC 22 1988
At 9:44 o'clock P.M.
MARCH FONG EU, Secretary of State
By [Signature]
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1123-06 C

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

12-22-88
Date

FACE SHEET

88-1213-02E
(See Instructions on Reverse)

RDB #1088-45

1000 DEC 13 PM 3:55
OFFICE OF
ADMINISTRATIVE LAW

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED

In this office of the Secretary of State
of the State of California

DEC 22 1988

At 4:44 o'clock P.M.

MARCH FONG EU, Secretary of State

By Imelda L.
Deputy Secretary of State

ENDORSED
APPROVED FOR FILING
DEC 22 1988

Office of Administrative Law
For use of Office of Adm Law

Department of Social Services

(AGENCY)

L. S. Mahle

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: 12-5-88

For use by Secretary of State only

1. AGENCY CONTACT PERSON FOR THIS FILING
(See instructions)
Rosalie Clark, Chief, Regulations Development Bureau
445-0313
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
Title MPP
SECTIONS ADOPTED:
SECTIONS AMENDED:
SECTIONS REPEALED:
63-407
b. The following sections listed in 3a contain modifications to the text originally made available to the public:
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
☐ prior to the emergency adoption
☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
☐ Other _____ (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER
N/A
b. DATE OF FINAL AGENCY ACTION
December 5, 1988
c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c))
N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
a. ☐ Effective 30th day after filing with the Secretary of State.
b. ☐ Effective upon filing with the Secretary of State.
c. ☐ Effective on _____ as required or allowed by the following statute(s):
d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
e. ☒ Effective on 1/1/89 (Designate effective date *later than* the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3 a. Provide the Administrative Code Title in which the regulation will appear and list *section* number of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
- Part 7. Certain regulatory activities must be reviewed and approved by other state agencies prior to submittal to OAL. Regulations subject to prior approval include:
- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8 a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
 - If an effective date later than specified above is requested, provide the date.

FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

Amend MPP Section 63-407 to read:

63-407 WORK REGISTRATION REQUIREMENTS (Continued)

63-407

.8 Food Stamp Employment and Training Program

.81 CWD Screening (Continued)

- .811 The following registrants shall be deferred from mandatory participation until the CWD determines that the situation precluding participation no longer exists.

(a) (Continued)

(b) (Continued)

(c) A person who is unable to participate due to personal circumstances. This shall include but not be limited to persons who:

(1) (Continued)

(2) (Continued)

(3) (Continued)

(4) (Continued)

(5) (Continued)

(6) (Continued)

(7) (Continued)

(8) Are non-English speaking to the extent that the CWD does not have services available in the individual's language or there is little or no job market in the community for non-English speaking individuals.

.812 (Continued)

.813 (Continued)

.814 (Continued)

Authority Cited: Sections 10553, 10554 and 18902 of the Welfare
and Institutions Code.

Reference: 7 CFR 273.7(f)(2).

OFFICE OF ADMINISTRATIVE LAW
CERTIFICATION
OF
APPROVAL

FILED
In this office of the Secretary of State
of the State of California

DEC 22 1988
At 4:44 o'clock P.
MARCH FORG EU, Secretary of State
By Mella
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1213-02 E


LINDA STOCKDALE BREWER
DIRECTOR

12-2288

Date

88-1219-01E

FACE SHEET

(See Instructions on Reverse)

RDB #1188-54

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

FILED

In this office of the Secretary of State
of the State of California

DEC 27 1988

At 4:37 o'clock P.M.

MARCH LONG EU, Secretary of State

By [Signature]
Deputy Secretary of State

Department of Social Services

(AGENCY)

[Signature]

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: December 16, 1988

For use by Secretary of State only

ENDORSED
APPROVED FOR FILING

DEC 27 1988

Office of Administrative Law

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE
- Rosalie Clark, Chief Regulations Development Bureau 445-0313
2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction
3. a. Specify California Administrative Code title and sections as follows:
- Title MPP
- SECTIONS ADOPTED: 63-086
- SECTIONS AMENDED: 63-401
- SECTIONS REPEALED:
- b. The following sections listed in 3a contain modifications to the text originally made available to the public: N/A
4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)
- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.
5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?
- ☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:
6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?
- ☒ No ☐ Yes, if yes, give date statement was submitted to OAL
7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)
- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other (SPECIFY AGENCY)
8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A
- b. DATE OF FINAL AGENCY ACTION December 19, 1988
- c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A
9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)
- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State. (1-1-89)
- c. ☐ Effective on _____ as required or allowed by the following statute(s):
- d. ☐ Effective on _____ (Designate effective date earlier than 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date later than the normal effective date for the type of order filed.)

INSTRUCTIONS FOR STD 400

Completed Face Sheet for Filing Regulations with the Office of Administrative Law must be attached to the front of each of the seven copies of the regulations. Note that at least one Face Sheet must contain an original signature of the agency officer with rulemaking authority.

- Part 1. Provide the name and telephone number of the person who is authorized during the review period to answer questions regarding this regulatory filing. If different than person designated in certification box, attach order delegating authority for making decisions regarding these regulations.
- Part 2. Check the appropriate box. NOTE: Nonsubstantive changes are reviewed by and are subject to OAL approval.
- Part 3. a. Provide the Administrative Code Title in which the regulation will appear and list *section number* of each regulation to be amended, adopted or repealed. *When filing a Certificate of Compliance list the section number of each emergency regulation formally adopted after completion of the rulemaking procedures of the APA.* (Attach additional sheets if necessary.)
- b. Please list the section number of each regulation which includes modifications to the text to the regulations originally made available to the public pursuant to Government Code Section 11346.5(b), and adopted, amended or repealed as modified pursuant to Government Code Section 11346.8(c). The sections listed here must correspond to the sections which were made available for 15 days pursuant to Government Code Section 11346.8(c).
- Part 4. Check appropriate box as necessary to comply with the requirements of Government Code Section 11346.1(e).
- Part 5. Specify date(s) and file number(s) of each prior submittal of these regulatory changes which was withdrawn or disapproved.
- Part 6. OAL has a longer time period to review regulatory changes submitted to carry out amendments and repeals which are identified in the agency's Statement of Review Completion and which have been submitted as a result of the agency's review of regulations administered by it as of June 30, 1980. Therefore, these regulatory changes should be submitted in a separate filing from any other regulatory changes. If not submitted separately, regulations not resulting from the review and any material in the rulemaking file relating to them must be clearly identified.
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- Fire and panic safety regulations (Govt. Code Sec. 11342.3.).
 - Building standards as defined in Section 18909 of the Health and Safety Code (Govt. Code Sec. 11343).
 - Conflict of Interest regulations (Title 2 California Admin. Code Section 18750(i)).
- Note: Where regulations have a fiscal impact on state, local or federal government or result in reimbursable costs to local government or school districts the fiscal impact statement must be reviewed, approved and signed by the Department of Finance before the regulations will be accepted for filing by OAL. See Government Code Sections 11349.1, 11346.5(a)(6), and S.A.M. sections 6050-6057.
- Part 8. a. Provide the publication date of the Notice Register in which the notice of proposed action appeared.
- b. Provide the date on which the regulatory agency adopted the regulatory changes.
- c. If the regulations were modified subsequent to the hearing or written comment period, provide the dates during which the modified regulations were made available to the public. Note that period must be at least 15 days and must be completed prior to the date the agency adopts the modified text. All modifications must be clearly indicated.
- Part 9. Effective Dates — check one of the following:
- A regulation or order of repeal is effective 30 days after filing with the Secretary of State unless a different date is specified below.
 - An emergency order, Certificates of Compliance or nonsubstantive change is effective upon filing with the Secretary of State unless a later date is specified below.
 - If an effective date other than specified above is required or allowed by statute, provide the date and the statutory citations(s).
 - If an early effective date is being requested, please attach a letter specifying the date the regulation(s) should take effect and the reason for the early effective date. Requests are granted by OAL upon a showing of good cause.
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FILING REQUIREMENTS

The following material must be submitted when filing regulations with OAL:

- Seven (7) copies of the regulations. Note: Use underline and strikeout to indicate changes in an existing section. For adoption of a new section, underline new text. The repeal of an entire section may be indicated by placing a diagonal slash through the text to be repealed.
- A completed Face Sheet for filing regulations with the Office of Administrative Law, Form STD 400 attached to the front of each copy of the regulations, with at least one Face Sheet bearing an original signature.
- Complete rulemaking file, with index and sworn statement. (See Govt. Code Sec. 11347.3 for full list of rulemaking contents.)

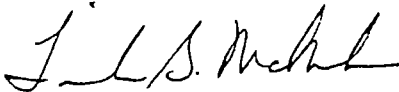
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88
Date

Adopt Section 63-086 to read:

63-086 IMPLEMENTATION OF REGULATIONS TO ADOPT A 63-086
RESIDENCY OPTION FOR PARTICIPANTS IN THE
GAIN WORK SUPPLEMENTATION PROGRAM

.1 Effective January 1, 1989 the CWDs shall implement the
revised and adopted provisions. The section affected is
63-401.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and
Institutions Code.

Reference: Section 18904, Welfare and Institutions Code.

Amend Section 63-401 to read:

63-401 RESIDENCY

63-401

- .1 A household must be living in the county in which it files an application for participation.
- .2 No individual may participate as a member of more than one household, or in more than one county in any month except for eligible residents of shelters for battered women and children (see Section 63-503.46) who were program participants in the dwelling of the abuser.
- .3 The CWD shall not interpret residency to mean domicile which is sometimes defined as a legal place of residence or principal home.
- .4 The CWD shall not impose any durational residency requirements.
- .5 The CWD shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the county. Persons in a county solely for vacation purposes shall not be considered residents.
- .6 The CWD shall not require the otherwise eligible household to reside in the county which is providing food stamp benefits if the household is participating in the GAIN Work Supplementation Program. The CWD providing the AFDC benefits to these households shall also provide food stamp benefits to them.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.3 and Section 18904, Welfare and Institutions Code.

FACE SHEET

(See Instructions on Reverse)

RDB #1188-54

FOR FILING ADMINISTRATIVE REGULATIONS
WITH THE OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION: I hereby certify that the attached are true and correct copies of regulations adopted, amended or repealed by this agency and that the information specified on this Face Sheet is true and correct.

Department of Social Services

J. L. Stahl
(AGENCY)

AGENCY OFFICER WITH RULEMAKING AUTHORITY

Date: December 16, 1988

For use by Secretary of State only

1988 DEC 19 PM 3:49
OFFICE OF
ADMINISTRATIVE LAW

ENDORSED
APPROVED FOR FILING
DEC 27 1988

Office of Administrative Law

For use of Office of Adm Law

1. AGENCY CONTACT PERSON FOR THIS FILING (See instructions) TITLE TELEPHONE

Rosalie Clark, Chief Regulations Development Bureau 445-0313

2. Type of filing, (check one) ☐ 30-day Review ☒ Emergency ☐ Certificate of Compliance (Complete Part 4 below)
- ☐ Regulatory changes resulting from Govt. Code 11349.7 review (Complete Part 6 below)
- ☐ Nonsubstantive changes with nonregulatory effect ☐ Printing Error Correction

3. a. Specify California Administrative Code title and sections as follows:

Title MPP

SECTIONS ADOPTED:

63-086

SECTIONS AMENDED:

63-401

SECTIONS REPEALED:

- b. The following sections listed in 3a contain modifications to the text originally made available to the public: N/A

4. CERTIFICATE OF COMPLIANCE (Government Code Section 11346.1(e): The above-named agency officer certifies that this agency complied with the provisions of Government Code Sections 11346.4-11346.8. (Check one)

- ☐ prior to the emergency adoption
- ☐ within 120 days of the effective date of the emergency adoption of the above-referenced regulations.

5. Is this filing a resubmittal of a previously disapproved or withdrawn regulation?

☒ No ☐ Yes, if yes, give date(s) of prior submittal(s) to OAL:

6. Is the filing submitted to carry out amendments or repeals identified in the statement of review completion submitted as a result of the agency's review of regulations administered by it as of June 30, 1980?

☒ No ☐ Yes, if yes, give date statement was submitted to OAL

7. If these regulations required prior review and approval or concurrence by any of the following agencies, check appropriate box(es)

- ☐ Fair Political Practices Commission (Include FPPC approval stamp) ☐ Building Standards Commission (Attach approval)
- ☐ State Fire Marshall (Attach approval) ☐ Department of Finance (Attach properly signed Std. 399)
- ☐ Other _____

(SPECIFY AGENCY)

8. a. PUBLICATION DATE OF NOTICE IN CALIFORNIA ADMINISTRATIVE NOTICE REGISTER N/A
- b. DATE OF FINAL AGENCY ACTION December 19, 1988
- c. DATES OF AVAILABILITY OF MODIFIED REGULATION(S) (GOVT. CODE SEC. 11346.8(c)) N/A

9. Effective date of regulatory changes: (See Government Code Section 11346.2 and instructions on reverse)

- a. ☐ Effective 30th day after filing with the Secretary of State.
- b. ☒ Effective upon filing with the Secretary of State. (1-1-89)
- c. ☐ Effective on _____ as required or allowed by the following statute(s): _____
- d. ☐ Effective on _____ (Designate effective date *earlier than* 30 days after filing with the Secretary of State pursuant to Govt. Code Sect. 11346.2(d).)
- Attach request demonstrating good cause for early effective date. Request subject to OAL approval.
- e. ☐ Effective on _____ (Designate effective date *later than* the normal effective date for the type of order filed.)

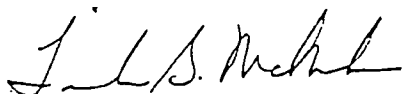
DELEGATED AUTHORITY ORDER

I hereby authorize and designate the following individuals as the agency contact persons who have authority, during the Office of Administrative Law review period, to make decisions and answer questions regarding regulations adopted by the Department of Social Services.

Rosalie P. Clark, Chief
Regulations Development Bureau

James Rhoads, Assistant Chief
Regulations Development Bureau

This designation shall be effective on 8-26-88, 1988 and shall remain in effect until superseded or cancelled.



Linda S. McMahon
Director

8-26-88
Date

Adopt Section 63-086 to read:

63-086 IMPLEMENTATION OF REGULATIONS TO ADOPT A
RESIDENCY OPTION FOR PARTICIPANTS IN THE
GAIN WORK SUPPLEMENTATION PROGRAM

63-086

.1 Effective January 1, 1989 the CWDs shall implement the
revised and adopted provisions. The section affected is
63-401.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and
Institutions Code.

Reference: Section 18904, Welfare and Institutions Code.

Amend Section 63-401 to read:

63-401 RESIDENCY

63-401

- .1 A household must be living in the county in which it files an application for participation.
- .2 No individual may participate as a member of more than one household, or in more than one county in any month except for eligible residents of shelters for battered women and children (see Section 63-503.46) who were program participants in the dwelling of the abuser.
- .3 The CWD shall not interpret residency to mean domicile which is sometimes defined as a legal place of residence or principal home.
- .4 The CWD shall not impose any durational residency requirements.
- .5 The CWD shall not require an otherwise eligible household to reside in a permanent dwelling or have a fixed mailing address as a condition of eligibility. Nor shall residency require an intent to reside permanently in the county. Persons in a county solely for vacation purposes shall not be considered residents.
- .6 The CWD shall not require the otherwise eligible household to reside in the county which is providing food stamp benefits if the household is participating in the GAIN Work Supplementation Program. The CWD providing the AFDC benefits to these households shall also provide food stamp benefits to them.

Authority Cited: Sections 10553, 10554, and 18904, Welfare and Institutions Code.

Reference: 7 CFR 273.3 and Section 18904, Welfare and Institutions Code.

OFFICE OF ADMINISTRATIVE LAW

CERTIFICATION

OF

APPROVAL

FILED

In this office of the Secretary of State
of the State of California

DEC 2 1988

At 4:37 o'clock P.M.

MARCH FONG EU, Secretary of State

By *Patricia B. Bates*
Deputy Secretary of State

This certifies that the regulations submitted in the rulemaking file identified below were reviewed and approved by the Director of the Office of Administrative Law in the city of Sacramento, state of California.

Submitting Agency: Department of Social Services

DAL File No: 88-1219-01 E

[Signature]
LINDA STOCKDALE BREWER
DIRECTOR

12/27/88
Date